

CHARTER TOWNSHIP OF ALPENA

ALPENA COUNTY, MICHIGAN

ORDINANCE NO. 135

AN ORDINANCE DESIGNED TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF PERSONS AND PROPERTY LOCATED IN THE CHARTER TOWNSHIP OF ALPENA, BY ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE (2015 EDITION AND FUTURE EDITIONS), REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY, AND FIT FOR OCCUPATION AND USE; BY PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH EXISTING STRUCTURES; BY REGULATING RENTAL DWELLINGS; BY REGULATING HOUSE TRAILERS; BY PROVIDING FOR THE INSPECTION OF RESIDENTIAL DWELLINGS PRIOR TO SALE OR TRANSFER; BY REGULATING VACANT PROPERTIES; BY REGULATING DANGEROUS BUILDINGS; BY PROVIDING FOR THE ISSUANCE OF PERMITS AND THE COLLECTION OF FEES; AND BY PROVIDING PENALTIES FOR VIOLATIONS.

THE CHARTER TOWNSHIP OF ALPENA ORDAINS:

Section 1. Purpose.

The purpose of this ordinance is to promote the public health, safety, and general welfare of persons and property in the Charter Township of Alpena.

Chapter 1. International Property Maintenance Code

Section 2. Adoption of International Property Maintenance Code.

The International Property Maintenance Code, 2015 edition (along with any future editions), three (3) copies of which are on file in the office of the Charter Township of Alpena Clerk, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the Charter Township of Alpena, for regulating and governing the conditions and maintenance of all property, buildings, and structures in the Township; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; by providing for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures as herein provided; by providing for the issuance of permits and the collection of fees therefor; and by providing penalties for violations. Each and all of the regulations, provisions, penalties, conditions, and terms of such International Property Maintenance Code, as amended, are hereby referred to, adopted, and made a part hereof, as if fully set forth herein, with the additions, insertions, deletions, and changes stated in section 3 of this ordinance.

Section 3. Additions, Insertions, Deletions, and Changes.

The following sections of such International Property Maintenance Code, as amended, are hereby revised as follows:

•Section 101.1: Insert for “[NAME OF JURISDICTION]” the words “Charter Township of Alpena, Michigan.”

•Section 103.5: Insert: The fee schedule incorporated herein may be revised from time to time by resolution of the Charter Township of Alpena Board of Trustees.

- Section 302.4: Insert: Twelve (12) inches in height.
- Section 304.14: Insert: From May 1 to September 30.
- Section 602.3: Insert: From September 1 to June 1.
- Section 602.4: Insert: From September 1 to June 1.

Section 4. Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with sections 2 and 3 of this ordinance are hereby repealed.

Chapter 2. Rental Dwellings

Section 5. Definitions.

As used in this chapter:

- (a) "Certificate of Compliance" means a certificate issued by the Township Building Department, which certificate certifies compliance with all applicable codes, ordinances, statutes, rules, and regulations.
- (b) "Code Official" means the official who is charged with the administration and enforcement of this ordinance or any duly authorized representative.
- (c) "Common utility areas" means all areas of a rental dwelling other than the dwelling units themselves, including, but not limited to, all mechanical rooms, utility rooms, storage areas, exit facilities, recreational areas, and other public spaces within or connected to the building.
- (d) "Lease" means any written or oral agreement that sets forth conditions concerning the use and occupancy of rental dwellings or rental units.
- (e) "Notice of violation" means a notice issued to the owner or registered agent stating there has been a violation of this chapter or any other applicable code, ordinance, statute rule, or regulation concerning the premises.
- (f) "Occupancy" includes all tenants, lessees, and persons residing within a rental dwelling or rental unit.
- (g) "Owner" means any person having a legal or equitable interest in the premises.
- (h) "Premises" means any lot or piece of land, inclusive of the rental dwellings, rental units, common utility areas, and all other improvements or any part thereof.
- (i) "Rental dwelling" means any structure, building, or other facility promised and/or leased in whole or in part to a residential tenant for use as a home, residence, or sleeping unit, regardless of arrangement. "Rental dwelling" includes, but is not limited to, all two-family dwellings, multiple dwellings, apartment buildings, boarding houses, rooming houses, hotels, motels, and flats, and all single-family houses (excluding those houses which are owner-occupied and are not rented in

whole or in part). "Owner-occupied" shall only include the following: The actual owner of record, surviving spouse, children, parents, or grandparents. It shall be the burden of the prospective landlord (owner) and tenant to establish by a preponderance of the evidence that the family relationship described herein exists.

- (i) "Structure" means that which is built or constructed or a portion thereof.

Section 6. Purposes.

- (a) The Township recognizes the need for an organized inspection and registration program for rental properties located within the Township in order to ensure rental dwellings meet all applicable building, existing structures, fire, health, safety, and zoning codes, and to provide an efficient system for compelling both absentee and local landlords to correct violations and maintain, in proper condition, rental property within the Township.

The Township recognizes that the most efficient system is the creation of a program requiring the registration and inspection of rental property within the Township as defined in this ordinance, so that orderly inspection schedules can be made by the Township officials.

The purposes of this chapter are to protect the public health, safety, and welfare by establishing minimum standards governing the state of repair and maintenance of rental dwellings, rental units, and the premises on which they are located; to establish minimum standards governing utilities, facilities, and other physical components and conditions essential to make and keep such premises fit for residential occupancy and use; to prevent blight and its detrimental effects from destroying the character and viability of the community; to fix certain responsibilities and duties upon owners and tenants; to authorize and establish procedures for registering, inspecting, and requiring that such premises be maintained in a compliant manner; to establish service and administrative fees to be charged through the enforcement of this chapter; and to fix penalties for violations of this chapter.

- (b) This chapter is declared to be essential for the public health, safety, and welfare, and it is intended that this chapter be liberally construed to effectuate the purposes stated in this section.

Section 7. Requirements.

- (a) No person shall lease, rent, occupy, or otherwise allow a rental dwelling within the Township to be occupied, unless all the following requirements have first been met. This clause covers both new rentals as well as existing rentals.
 - (1) The owner of the rental dwelling shall have registered the rental dwelling with the Township Building Department by completing and filing a current registration form with the Township Building Department as provided in Section 8 of this ordinance.
 - (2) An inspection shall be completed to the satisfaction of the Township Building Department.
 - (3) All previously billed property taxes; all current or past due special assessment installments; all water or sewer bills outstanding; all charges against the property for mowing, cleanup, weed, or debris removal; and similar charges by the township, shall be paid in full.

- (4) All fees charged by the Township for the registration and inspection of the rental dwelling shall be paid in full, as well as any fees, fines, penalties, or debts of any sort arising from the provisions or enforcement of this chapter.
 - (5) A valid certificate of compliance shall have been issued by the Township Building Department.
 - (6) The owner of an existing rental dwelling shall have thirty (30) days from the effective date of this ordinance to comply with the requirements therein.
- (b) Every owner of a rental dwelling or rental shall comply with each of the various requirements of this chapter so as to obtain and keep current a certificate of compliance for the premises of each rental dwelling and all dwelling units therein. The Code Official may revoke a certificate of compliance for any violation of all applicable codes, ordinances, statutes, rules, and regulations.

Section 8. Registration of Rental Dwellings.

- (a) The owner of a rental dwelling, occupied or unoccupied, shall register with the Township Building Department his or her name and business address, the location of each dwelling, the number of rental units within such dwelling, a current copy of the owner's driver's license, and a copy of the resident agent's driver's license when there is a resident agent. Notification of a change in ownership or use of any rental dwelling shall be officially provided within thirty (30) days after such change. This requirement does not relieve the registered owner of any such property of the responsibility to fully comply with the inspection, maintenance, and code compliance requirements of this chapter.
- (b) Owners who do not reside within a one hundred (100) mile radius of the Township shall appoint a Michigan based resident agent or other responsible party who does reside within a one hundred (100) mile radius of the Township upon whom notices and services of process may be made.
- (c) If rental dwellings are managed or operated by an agent or representative, the agent or representative's name and business address shall be provided to the Township Building Department. The owner and the agent or responsible party shall sign the registration form. A copy of the management agreement between the owner and the agent or representative must be included with the rental certificate application filed with the Township Building Department at the time of submission.
- (d) If the owner is a corporation or limited liability company, the names and addresses of its officers shall be provided. A post office box shall not be used as a legal address for the owner/agent. An actual property address shall be listed on the registration form and the application for the certificate of compliance.
- (e) Any change in address of the owner, agent, or representative/responsible party shall be provided by such owner, agent, or representative/responsible party to the Township Building Department within thirty (30) days of such change.
- (f) If any rental dwelling is sold, it shall be the obligation of the seller or his or her agent to notify the Township Building Department, within thirty (30) days, of the name and address of the purchaser. Certificates of compliance are not transferable; once the property is sold, the new owner must apply for a new certificate of compliance. Correction of identified violations may be

assumed by the purchaser if the Township Building Department is provided with an affidavit of such assumption from the purchaser. This requirement shall not relieve any owner of a rental dwelling of the responsibility to keep registrations current and to comply with every provision of this chapter.

Section 9. Registration Fees.

- (a) There shall be an initial registration fee for each rental dwelling. Such fees shall be paid by the owner or his or her agent or representative at the time of registration.
- (b) Calculation of registration or registration renewal fees shall be based on the total number of dwelling units in the same building for which a unique certificate of compliance is required.
- (c) Each new owner of a currently registered rental dwelling shall submit a new application and pay, within thirty (30) days of the transfer of an ownership interest, the rental registration fee.
- (d) Any change in address of the owner, agent, or representative/responsible party shall be provided by such owner, agent or representative/responsible party to the Township Building Department within thirty (30) days of such change.
- (e) All initial registration and registration late fees shall be set from time to time by resolution of the Township Board of Trustees. Additional fees, fines, assessments, and penalties may be adopted from time to time by resolution of the Township Board of Trustees.

Section 10. Inspections; Right of Entry.

- (a) The Code Official and such other code enforcement officials as the Code Official may designate are hereby authorized to make inspections of rental dwellings, occupied or unoccupied, as follows:
 - (1) Prior to the sale thereof.
 - (2) Upon identification of external violations documented by the Code Official, or upon receipt of a complaint registered by a tenant, resident and/or neighborhood association if, after investigation, the Code Official determines that such inspections are reasonably required to accomplish the intent of this chapter; and
 - (3) Every dwelling unit shall be inspected at least once every three (3) years.
- (b) All owners, agents, representatives, and tenants shall comply with inspection requests of the Code Official and such other code enforcement officials as are provided for in subsection (a) hereof.
- (c) Right of entry: When it is necessary to make an inspection to enforce the provisions of this ordinance, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this ordinance, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this ordinance, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

Section 11. Records of Violations; Notice to Correct; Certificate of Compliance.

- (a) If, upon inspection of a rental dwelling and premises, any unit or any part thereof is found to be in violation of this chapter or any applicable building code, zoning regulation, or other requirement relating to the maintenance or conditions of the property, such violation shall be recorded by the Township Building Department. Notice thereof, by regular mail, shall be given to the owner, agent, or representative as such appears in the registry.
- (b) It shall be the property owner's responsibility to correct all life-safety code violations immediately and to maintain such property in a safe and compliant manner at all times. All violations shall be corrected within ten (10) days.
- (c) Correction of maintenance violations that can be performed without obtaining a permit must be verified and documented by an inspector; this will be done without additional cost provided that the owner corrects all violations and requests verification within the prescribed time.
- (d) Correction of violations that must be performed by an appropriately licensed or qualified person shall be done in compliance with the permit requirements specified in all applicable codes, ordinances, statutes, rules, and regulations.
- (e) A certificate of compliance shall be issued by the Code Official for each rental dwelling when it is established that such dwelling or facility is in compliance with all of the code requirements applicable to existing structures or residential occupancies. A certificate of compliance shall be valid for three (3) years.
- (f) Every owner or responsible party shall be responsible for regulating the proper use and maintenance of his or her rental dwelling in the Township. He or she shall be responsible for monitoring the conduct and activities of the occupants and ensuring that the rental dwellings do not constitute a public nuisance, and that illegal activities do not occur there.

Section 12. Inspection Fees.

Each unit in a rental dwelling shall be inspected as required by this chapter. The fees shall be set from time to time by resolution of the Township Board of Trustees. The applicable fees shall be paid within ten (10) days of the date of the notice. Accounting of the inspection fees collected and the distribution thereof shall be made through the Township Rental Ordinance Accounts.

Section 13. Enforcement.

The Code Official of the Township Building Department and/or his or her authorized representatives shall serve as ordinance officers for purposes of enforcement of this chapter and shall be authorized to issue notices, orders, violations, and court appearance tickets relative to violations of this chapter.

- (a) If any owner of any rental dwelling fails to comply with the registration requirements specified herein, the certificate of compliance may be suspended or revoked.
- (b) If any owner of any rental dwelling fails to comply with the inspection requirements specified herein after being properly notified, additional enforcement action may be taken. If the order is not promptly complied with, each dwelling unit contained therein shall be posted with a notice requiring that the occupant of the unit provide entry for inspection purposes at a specified date and time.

- (c) If any owner of any rental dwelling fails to correct the violations identified in the inspection report, as required by this chapter, the certificate of compliance may be revoked, and the owner/responsible agent may be subject to additional fines and other enforcement action.

Section 14. Conflict of Laws.

In any case where a provision of this chapter is found to be in conflict with any provision of any Michigan statute or any zoning, building, fire, safety, or health ordinance, the provision which established the higher standard for the promotion and protection of the health, safety, and welfare of the public shall prevail.

Nothing in this chapter shall be deemed or construed to impair the rights of the Township under any ordinance, statute, or code, relating to condemnation of structures or relating to the maintenance, condition, or safety of structures.

Section 15. Appeals.

Any person affected by any notice that has been issued in connection with the enforcement of this chapter may request and shall be granted a hearing on the matter before the Hearing Board on Dangerous Buildings and Code Appeals, provided that such person files in the office of the Township Building Department a written petition requesting such hearing and containing a statement of the grounds of the appeal within twenty (20) days after the day the notice was served.

The Hearing Board on Dangerous Buildings and Code Appeals shall serve as the code appeals board, with all the powers and duties afforded to it under chapter 6 of this ordinance.

Section 16. Intent.

It is the intent of this chapter to have all rental dwellings maintained according to the minimum codes governing existing buildings and residential occupancies. It is not intended to have such rental dwellings brought up to the current code requirements for new buildings.

Chapter 3. House Trailers

Section 17. Definitions.

As used in this chapter:

- (a) "House trailer" means and includes all vehicles or objects of conveyance duly licensed for travel or to be moved on the public streets, serving as temporary places of abode, providing sleeping accommodations for one or more persons, having as their base or foundation wheels, and, in some instances, portable jacks to be used when the same are parked.
- (b) "House trailer or tourist camp" means and includes any area, land, or premises upon which one or more occupied house trailers are parked or tourist cabins are located, and includes any building, structure or enclosure used in connection with such house trailer or tourist camp.

Section 18. Limitations on Parking; Registration Required; Fee; Exceptions.

No person shall park a house trailer anywhere in the Township except in a duly licensed trailer camp or on the premises of any occupied dwelling, provided only one house trailer is parked on the premises of an occupied dwelling at a time, provided the use of the sanitary and washing facilities of the private residence are available to the occupants of the house trailer at all times and no charge is made therefor, and provided

such house trailer is registered with the Township Building Department. Such registration shall be made by the owner or occupant of the house trailer within one (1) day after his or her arrival. Such registration shall permit a house trailer to remain at the premises on which it is located for twenty-one (21) days. A registration fee of one dollar (\$1.00) shall be charged. The application for registration shall list the names of the occupants, the license number of the house trailer and all units used in connection with it, and the last location at which the house trailer was parked. Such application shall be accompanied with the written consent of the person occupying the dwelling and premises on which the house trailer is parked or to be parked and the address of the dwelling.

A nonprofit organization or educational institution located in the Township may apply for an exemption from this section in connection with events and tournaments in which it participates. The Township Board of Trustees may approve such application for exemption by permitting the parking of not more than ten (10) trailers for not more than five (5) days on public property or on property which the organization or institution owns or has the right to use.

Section 19. Sewage, Garbage, and Rubbish.

All waste liquids must be collected in sanitary receptacles, approved by the Township Code Official, and emptied into receptacles connected with sewers. No person shall discharge, drain, empty, or spill waste liquids of any kind on the ground. The disposition of garbage, waste, rubbish, and ashes shall be governed by this ordinance.

Section 20. Removal of Wheels.

No person shall remove the wheels or tires of any occupied house trailer in the Township, except for the purpose of repair and then only for the time reasonably necessary to make such repair. No person shall place a house trailer on anything but a temporary base.

Section 21. Restrictions on Occupancy.

No house trailer shall at any time be occupied for the purpose of sleeping by a larger number of persons than it is designed, arranged, and constructed to accommodate.

Chapter 4. Inspection of Residential Dwellings Prior to Sale or Transfer

Section 22. Definitions.

As used in this chapter:

- (a) "Accessory use" means a garage, shed, pool, gazebo, doghouse, playhouse, or similar use.
- (b) "Certificate of Approval" means a certificate issued by the Township Building Department which certifies compliance with the provisions of the codes and ordinances of the Township for residential dwellings. A certificate of approval is a certificate that shall be valid for one (1) sale or transfer of a dwelling. A new inspection and a new certificate of approval shall be required each time the dwelling is sold or transferred.
- (c) "Certificate of Compliance" means a certificate issued by the Township Building Department which certifies compliance with the provisions of the codes and ordinances of the Township for all rental dwellings and rental units. A certificate of compliance shall be valid for three (3) years from the date of issuance unless the property is sold or transferred. A new inspection and a new certificate of compliance shall be required prior to the sale or transfer of a rental dwelling or a

rental unit.

- (d) "Certificate of Occupancy" means a certificate issued by the Township Building Department in accordance with the provisions of the Charter Township of Alpena Zoning Ordinance for an approved use or occupancy.
- (e) "Dwelling" means a residential structure and accessory uses located in the Township. A rental dwelling as defined in chapter 2 of this ordinance, which has a current certificate of compliance issued to it, is not included in this definition.
- (f) "Person" means any individual, partnership, corporation, or other legal entity.
- (g) "Transfer" means the sale or conveyance of title to another for consideration, the execution of a land contract, or the exercise of an option to purchase a dwelling. A conveyance by lease, gift, devise, or lien foreclosure is not included in this definition. A transfer subject to the terms of a purchase agreement entered into prior to the effective date of this section is not included in this definition.

Section 23. Certificate of Approval Required.

- (a) It shall be unlawful for any person to transfer a dwelling or for any person to act as a broker for the transfer of a dwelling which does not have a current certificate of approval issued for the dwelling except as otherwise allowed by this section. Any person who is going to transfer a dwelling must register with the Township Building Department for the purpose of scheduling an inspection of the dwelling. The fee for the registration and inspection shall be set from time to time by resolution of the Township Board of Trustees. Such fee shall only cover the actual costs related and incident to the administration and enforcement of this chapter.
- (b) The buyer may assume the responsibility of correcting violations. The buyer must also execute a notarized affidavit of his or her intent to assume the responsibility of correcting the violations and submit the affidavit to the Township Building Department. If the violations are not corrected within the six (6) months, occupancy may be prohibited.

Section 24. Inspections.

When it is necessary to make an inspection to enforce the provisions of this ordinance, or whenever the Township Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this ordinance, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this ordinance, provided that if such structure or premises is occupied the Township Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Township Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Township Code Official shall have recourse to the remedies provided by law to secure entry.

Chapter 5. Vacant Properties

Section 25. Purpose.

The purpose of this chapter is to help protect the health, safety, and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of

nuisances, and ensuring safe and sanitary maintenance of dwellings and commercial and industrial buildings. The Township will normally inspect properties upon a change of ownership or use and, in the case of nonowner-occupied residential property, every three (3) years. Due to economic conditions, mortgage fraud, and increased bankruptcies, many homes and buildings have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant or abandoned buildings. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. The Township also needs to be able to contact owners for fire safety and police reasons.

Section 26. Scope.

The provisions of this chapter apply to all existing residential, commercial, and industrial structures and to all vacant land. An exception is allowed for properties when the Township enters into an agreement with a third party to exercise its first right of refusal with Alpena County on tax foreclosed properties, and then transfers title to those properties to the third party. These properties are exempt for eighteen (18) months after title is placed in the name of the third party.

Section 27. Definition of Vacant Property.

A vacant property is defined as any address having a lot, building, or structure that is not legally or currently occupied. If no address has been assigned to the property, then property will be defined by parcel.

Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation; accumulation of newspapers, circulars, flyers, or mail; past-due utility notices or disconnected utilities; accumulation of trash, junk, or debris; boarded-up windows; abandoned vehicles, auto parts, or materials; the absence of window coverings such as curtains, blinds, or shutters; the absence of furnishings or personal items consistent with habitation or occupancy; and statements by neighbors, passersby, delivery agents, and government employees that the property is vacant.

Section 28. Vacant Properties to be Registered.

Owners or owners' agents of real property are required to register all vacant properties within ninety (90) days of the vacancy.

Section 29. Owner's Affidavit.

Owners who are required to register their properties pursuant to this chapter shall submit a copy of a driver's license and an affidavit containing the following information:

- (1) The name of the owner of the property.
- (2) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

- (3) The name, driver's license number, birth date, and contact information of the individual responsible for the care and control of the property. The responsible party may be the owner, if the owner is an individual, or may be someone other than the owner with whom he or she has contracted. Owners who do not reside within a one hundred (100) mile radius of the Township shall appoint a Michigan based resident agent or other responsible party upon whom notices and services of process may be made.
- (4) A current address, phone number, fax, and email address (if fax and email addresses are available) where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- (5) Permission to authorized Township personnel to access the exterior of the property for inspection purposes.

Section 30. Fees.

There shall be a semi-annual registration fee. The registration fee includes the cost of routine property maintenance and safety inspections. In addition, in the case where the owner has failed to register, there shall be assessed the added costs of the Township's expenses in having to determine ownership, which may include, but are not limited to, title searches. There shall be a fee for the filing of any additional or new owner's affidavit. Fees shall be set from time to time by the Township Board of Trustees and placed on the Township Fee Schedule.

Section 31. Requirement to Keep Information Current.

If at any time the information contained in the affidavit is no longer valid, the property owner has ten (10) days to file a new affidavit containing current information. There shall be no fee to update the current owner's information.

Section 32. Inspections Required.

Owners of vacant buildings who are required to file an owner's affidavit under this chapter are subject to routine safety and maintenance inspection of the building and property.

Section 33. Maintenance and Safety Requirements.

Properties subject to this chapter shall comply with chapter 1 of this ordinance and shall be kept free of weeds; grass more than twelve (12) inches high; dry brush; dead vegetation; trash; junk; debris; building materials; any accumulation of newspapers, circulars, flyers, and notices, except those required by federal, state, or local law; discarded items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, and any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

All visible front and side yards shall be landscaped and properly maintained. Landscaping shall include, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock, and bark

designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-outdoor carpet, or any similar material. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping, and removal of all trimmings.

Pools, spas, and other water features shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of the Michigan building, construction and maintenance codes.

Properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons such as vandals, scrappers, or small children. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding, and garage), gates, rooftop access, and any other opening of such size that it may allow an unauthorized person to access the interior of the property and/or structure(s). Broken windows must be repaired or replaced within seven (7) days. Boarding up of open or broken windows is prohibited except as a temporary measure. It is the owner's responsibility to secure the property.

The owner or the owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC, plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings, roofing, structural systems, foundations, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks, and public areas are sound, operational, or properly disconnected.

If the property is owned by a corporation or the beneficiary/trustee/owner is located more than one hundred (100) miles away, a local Michigan property management company shall be contracted to perform weekly inspections to verify that the requirements of this chapter and all applicable codes, ordinances, statutes, rules, and regulations are being met.

Section 34. Fire Damaged Property.

If a building is fire damaged, the owner has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. The Township Code Official may grant additional 90-day extensions, provided the owner can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and subject to the requirements of this chapter.

Chapter 6. Dangerous Buildings

Section 35. Dangerous Building Defined.

As used in this chapter, "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 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 Code 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.

Section 36. Declaration of Nuisance; Abatement.

No person shall maintain any structure which is unsafe or a menace to the health, morals, or safety of the public.

The Township Code Official may abate any public nuisance if the public safety or health requires immediate action, without a preliminary order of the Board of Trustees. The cost of abating such nuisance may be charged against the premises and the owner thereof in accordance with this chapter.

Section 37. Prohibitions.

No person shall keep or maintain any building, structure, or dwelling, or part thereof, which is a dangerous building.

Section 38. Notice of Dangerous or Unsafe Conditions; Affidavit.

- (a) Issuance. Notwithstanding any other provision of this chapter, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the Township Code Official shall issue a notice, in writing, of the dangerous and unsafe condition to each owner of or party in interest in the alleged dangerous building in whose name the property appears on the last local tax assessment records.

It shall be unlawful for the owner of any premises who has received a notice or upon whom a notice has been served to sell, transfer, mortgage, lease, or otherwise dispose of the premises until the provisions of the notice have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any compliance order or notice issued by the Township Code Official and shall furnish to the Township Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice.

- (b) Contents; Hearings. 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.

- (c) Service; Filing.

- (1) Such notice shall be in writing and shall be served upon the person to whom it is directed personally or by certified mail, return receipt requested, addressed to each 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.
- (2) The Township Code Official shall file a copy of the notice of the dangerous and unsafe condition of any building or structure with the Hearing Board on Dangerous Buildings and Code Appeals.
- (3) At the same time that the owner is notified of the hearing, the Township Code Official shall request the Township Attorney to file a copy of the notice and order with the Alpena County Register of Deeds.

Section 39. Hearing Board on Dangerous Buildings and Code Appeals.

- (a) Appointments; Composition; Terms of Office. A Hearing Board on Dangerous Buildings and Code Appeals shall be appointed for the purpose of conducting hearings required by this chapter. The Board shall consist of five members who shall be appointed by the Township Supervisor, subject to approval of the Board of Trustees, and who shall serve at the pleasure of the Township Supervisor and Board of Trustees. Each member of the Board shall be appointed for a three-year term. However, the original members shall be appointed for one, two, and three-year terms respectively. Of the two additional members appointed pursuant to the Board, one shall be appointed for an original term of two years and the other for three years.
- (b) Power and Duties. The Board, in addition to all its powers and duties set forth in this chapter, shall act and serve as the Code Appeals Board.

- (c) Hearings; Vote. The Board shall hold meetings on an as needed basis. Three members of the Board must be present in order to conduct hearings or to hear appeals. A majority vote of the five members of the Board constitutes a decision of the Board.

Section 40. Hearings; Decisions.

The Hearing Board on Dangerous Buildings and Code Appeals shall take the testimony of the Township Code Official, the owner of the dangerous building, and any interested party. The Board shall render its decision, either closing the proceedings or ordering the building to be demolished or otherwise made safe.

Section 41. Orders to Demolish or Make Safe.

If it is determined by the Hearing Board on Dangerous Buildings and Code Appeals that a building or structure should be demolished or otherwise made safe, it shall so order, fixing a time not to exceed sixty (60) days from the date of the order for compliance therewith.

Section 42. Noncompliance with Notice; Remedy of Township.

- (a) If an owner, agent, or party in interest fails to appear or neglects or refuses to comply with the order provided for in section 41, the Hearing Board on Dangerous Buildings and Code Appeals shall file a report of its findings and a copy of its order with the Township Board of Trustees and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Board shall be served on each owner or party in interest in the manner prescribed in this chapter.
- (b) The Board of Trustees shall, upon receipt of the order and findings of the Board, fix a date not less than thirty (30) days after the hearing prescribed in section 40 for a hearing to review the findings and order of the Board, and shall give notice to each owner or party in interest in the manner prescribed in this chapter of the time and place of the hearing. At the hearing, each owner or party in interest shall be given the opportunity to show cause why the order should not be enforced. The Board of Trustees shall either approve, disapprove, or modify the order for the demolition or making safe of the building or structure. If the Board of Trustees approves the order, the Board of Trustees shall take all necessary action to enforce the order. If the order is approved or modified, the owner or party in interest shall comply with the order within sixty (60) days after the date of the hearing under this section. In the case of an order of demolition, if the 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 or party in interest shall comply with the order of demolition within twenty-one (21) days after the date of the hearing under this section.

- (c) A decision from the Board of Trustees modifying a demolition order in order to allow repair or alteration to the building will require that the building's owner, occupant, or lien holder complete all the following:
- (1) Within fourteen (14) days of the Board of Trustees' decision, post a cash or surety bond with the Township Treasurer's office in an amount equal to the Township Code Official's estimate of the cost to demolish the building;
 - (2) Within fourteen (14) days of the Board of Trustees' decision, apply with the Township Building Department for all permits necessary for the repairs to the building and pay all permit fees;
 - (3) Obtain a certificate of occupancy from the Township Building Department within six (6) months from the date that the permits are issued, or within any extensions of time that the Building Department may grant, not to exceed an additional six (6) months. No extension shall be granted if no work has begun during the initial six (6) month period.
 - (4) If the property owner and/or permit holders fail to comply with the provisions of subsection (3) of this section in the time required therein, the Township shall retain all cash deposits to apply to the cost of demolition, the excess amount, if any, to be returned to the owner.
 - (5) If the costs of demolition exceed the amount of any cash deposits, the Township will be permitted to exercise all other procedures for collection of such costs permitted in this chapter or state law.

Section 43. Costs of Demolition or Making Safe; Liens.

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 chapter shall be reimbursed to the Township by the owner or party in interest in whose name the property appears. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by first-class mail by the Township Assessor to the address shown on the Township records of a 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 chapter. The lien shall not take effect until notice of the lien has been recorded as provided by law. A lien provided for in this section does not have priority over previously recorded liens and encumbrances. The lien 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 Michigan Public Acts of 1893, as amended, being section 211.1 et seq. of the Michigan Compiled Laws.

Section 44. Building Contents; Removal; Storage; Disposition.

If the Board of Trustees orders that a building be demolished, the Township Code Official shall determine the date for demolition and shall then notify each owner or party in interest thereof in the manner set forth in this chapter. Such notice shall request that the owner or party in interest remove any contents of the building which are of value to him or her.

If, on the date set for demolition, the contents remain in the building which, in the opinion of the Township Code Official, are of more than nominal value, the Township Code Official shall cause such contents to be removed from the building and stored for not more than ninety (90) days. The owner or party in interest shall be notified that during the period of storage the contents may be claimed upon payment of a reasonable storage fee. Upon expiration of the storage period, the contents shall be considered to be abandoned and may be disposed of by the usual method of disposal of abandoned property. The demolition charges to the owner or party in interest shall then be reduced by any amount the Township receives for the sale of the abandoned property, which amount is in excess of the Township's expenses for removal and storage of the same.

Section 45. Appeals.

Any owner or party in interest of a dangerous building or structure who is aggrieved by any final decision or order of the Board of Trustees may appeal the decision or order to the Circuit Court within twenty (20) days from the date of the decision.

Section 46. Emergencies.

Nothing in this chapter shall prohibit the Township Building Department from summarily making safe any condition which, in the judgment of the Township Code Official, poses such an imminent hazard and threat to personal safety that abatement must occur before the time limits specified in this chapter.

Section 47. Court Judgment for Unpaid Costs; Injunctive Relief.

In addition to other remedies under this chapter, 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 section. The lien provided for in this section shall not take effect until notice of the lien is recorded as provided for by law. The lien does not have priority over prior recorded liens and encumbrances. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the subject building, structure, or property. The Township shall have a lien for the amount of the judgment obtained pursuant to this section 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 section does not have priority over prior recorded liens or encumbrances.

Section 48. Repeal of Charter Township of Alpena Ordinance No. 75.

Charter Township of Alpena Ordinance No. 75 ("the Alpena Township Dangerous Buildings Ordinance"), which was adopted by the Township Board of Trustees on June 5, 2000, is hereby repealed.

Chapter 7. Additional Provisions

Section 49. Fee Schedule. The Township Board of Trustees shall establish and approve a fee schedule for the implementation and enforcement of this ordinance.

Section 50. Penalties and Enforcement.

A. Any person or organization who violates any of the provisions of this ordinance or a certificate or permit issued pursuant to this ordinance shall be responsible for a municipal 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").

B. The Charter Township of Alpena Building Official and other Charter Township of Alpena officials and employees as may be authorized by the Charter Township of Alpena Board of Trustees are authorized to administer and enforce this ordinance and issue municipal civil infraction citations.

C. A municipal civil infraction action may be commenced upon the issuance by an authorized local official directing the defendant to appear in court.

D. Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to ninety (90) days in jail and/or up to a \$500.00 fine, plus costs of prosecution, and can result in the entry of a default judgment against the defendant on the municipal civil infraction.

E. 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.

F. 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.

G. 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.

H. Each day on which any violation of this ordinance continues constitutes a separate offense, and the offender shall be subject to the applicable fine, costs, penalties, and sanctions for each separate offense.

I. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this ordinance.

SECTION 51. EFFECTIVE DATE.

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

SECTION 52. 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.

SECTION 53. 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.

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 the 17th day of December, 2018.

I further certify that the following Board members were present at the meeting: Supervisor Skibbe, Clerk Palevich, Treasurer Ellery-Somers, Trustee Poli, and Trustee Kroll, and that the following Board members were absent: Trustee Dunckel and Trustee Lappan.

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

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: Supervisor Skibbe, Clerk Palevich, Treasurer Ellery-Somers, Trustee Poli, and Trustee Kroll, and the following Board members voted against the adoption of the ordinance: None.

Adopted and approved this 17th day of December, 2018, by the Charter Township of Alpena Board of Trustees.



Nathan Skibbe
Charter Township of Alpena Supervisor



Michele Palevich
Charter Township of Alpena Clerk