

ORDINANCE NO. 2004 - 07

AN ORDINANCE OF THE TOWNSHIP OF PENN FOREST DEFINING AND PROHIBITING DANGEROUS STRUCTURES AND BUILDINGS WHICH CONSTITUTE PUBLIC NUISANCES; ESTABLISHING STANDARDS FOR REPAIR, VACATION AND DEMOLITION THEREOF; DETERMINING THE DUTIES OF THE NUISANCE BUILDING ENFORCEMENT OFFICER AND AUTHORIZING HEARINGS BY THE SUPERISORS OF PENN FOREST TOWNSHIP; PROVIDING FOR ABATEMENT PROCEDURES IN EMERGENCY AND NORMAL CIRCUMSTANCES; PROHIBITING THE REMOVAL OF NOTICES AND PRESCRIBING PENALTIES FOR VIOLATION.

The Board of Supervisors of Penn Forest Township ("Supervisors") hereby ordains:

Section 1. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

BUILDING - an independent structure having a roof supported by columns or walls resting on its own foundation and includes a dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

DANGEROUS BUILDING - all buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
- B. Those which, exclusive of the foundation, show damage or deterioration to thirty-three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the non-supporting enclosing or outside walls or covering;

- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- D. Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- E. Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of the occupants or the public;
- F. Those which have parts thereof which are so attached that they may fall and injure property, the occupants, or the public;
- G. Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
- H. Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public;
- I. Those existing in violation of any provision of any building code, fire prevention code, or other ordinances of the Township of Penn Forest.

DWELLING - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

EXTERMINATION - control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

INFESTATION - presence, within or around a dwelling, of any insects, rodents or other pests.

OWNER - any person having a legal or equitable interest in a building or structure as shown by the records in the Carbon County Recorder of Deeds Office.

PERSON - any individual, firm, corporation, association or partnership, or other legal entity.

PROPERTY - a piece, parcel, lot or tract of land.

STRUCTURE - anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs and walks.

Whenever the words "dwelling", "dwelling unit", or "premises", are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof".

Section 2. Dangerous Buildings Declared Nuisances. All dangerous buildings within the terms of Section 1 of this ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.

Section 3. Standards for Repair, Vacation, or Demolition. The following standards shall be followed in substance by the Nuisance Building Enforcement Officer of the Township of Penn Forest in ordering repair, vacation, or demolition:

1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered to be repaired within such length of time, not exceeding sixty (60) days, as is reasonable.

2. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as is reasonable.
3. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Nuisance Building Enforcement Officer. The Nuisance Building Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.

4. If a dangerous building cannot be repaired so that it will no longer exist in violation of the terms of this ordinance; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of the Township of Penn Forest or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the owner shall first be given a reasonable period of time, not exceeding sixty (60) days, to abate the nuisance.

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Section 4. Duties of Nuisance Building Enforcement Officer.

1. At the direction of the Supervisors, the Nuisance Building Enforcement Officer shall inspect dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of Section 1 above.
2. Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the Nuisance Building Enforcement Officer shall issue a written notice to the owner, and if the owner is not also an occupant, to the occupants of the building. The notice:
 - A. shall be in writing;
 - B. shall include a statement of the reasons it is being issued;
 - C. shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building or structure;

- D. shall be served upon the owner (i) by handing a copy to the owner; or (ii) by handing a copy at the residence of the owner to an adult member of the family with whom the owner resides; but if no adult member is found, then to an adult person in charge of such residence; or (iii) by certified or registered mail addressed to the owner at the last known address with return receipt requested; or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place on the building or structure affected by such notice, and publication of such notice in a local newspaper of general circulation at least once a week for three consecutive weeks.
 - E. shall be served upon the occupants, if the owner is not also an occupant, (i) by handing a copy to the occupant; or (ii) by posting a copy thereof in a conspicuous place on the building or structure affected by such notice.
 - F. may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance and with the rules and regulations adopted pursuant thereto, if any.
3. Appear at all hearings conducted by the Township of Penn Forest and testify as to the condition of dangerous buildings.

Section 5. Hearings.

- 1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this ordinance, may request and shall be granted a hearing on the matter before the Supervisors; provided, that such person shall file with the Township Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of such petition, the Township Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than thirty (30) days after the day on which the petition was filed.

2. After such hearing, the Supervisors shall sustain, modify or withdraw the notice. If the Supervisors sustain or modify such notice, it shall be deemed to be an order. Any notice served pursuant to this ordinance shall automatically become an order if a written petition for a hearing is not filed with the Township Secretary within ten (10) days after such notice is served.
3. Any aggrieved party may appeal the final order to the Court of Common Pleas in accordance with the provisions of the Judicial Code.

Section 6. Removal of Notice Prohibited. No person shall remove or deface the notice of dangerous building, except as provided in Section 3(3).

Section 7. Emergency Cases. Whenever the Supervisors find that an emergency exists which requires immediate action to protect the public health, they may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Supervisors shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this ordinance have been complied with, the Supervisors shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

Section 8. Abatement by the Township of Penn Forest. If the owner or occupant fails to comply with the order of the Nuisance Building Enforcement Officer within the time specified in the notice issued by him and no petition for a hearing is filed within ten (10) days thereafter, or following a hearing by the Supervisors where the order is sustained or modified thereby, or an order of the Supervisors in emergency cases, the Nuisance Building Enforcement Officer shall cause such building or structure to be repaired, vacated, or demolished, as determined by the Supervisors in accordance with the standards hereinbefore provided. The Township of Penn Forest may collect the cost of such repair, vacation or demolition together with a penalty of ten (10%) percent of such cost, in the manner provided by law, including filing a municipal lien; or, the Township of Penn Forest may seek injunctive relief in a court of competent jurisdiction pursuant to the rules of civil procedure.

Section 9. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not exceeding One Thousand (\$1,000.00) Dollars, and in default of payment thereof to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense.

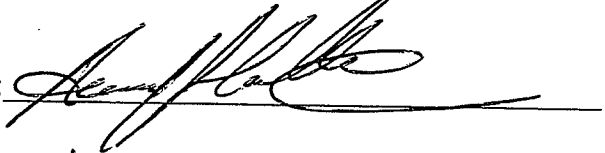
Section 10. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 11. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 12. Effective Date. This ordinance shall become effective on December 13, 2004.

PENN FOREST TOWNSHIP SUPERVISORS

BY:



Warren Rumm

Joel Eden

Judith M. Knappenberg

ATTEST:

Tommy L. Fawn 😊
Secretary
