

ORDINANCE NO. 7-100

AN ORDINANCE TO REGULATE UNSAFE BUILDINGS AND STRUCTURES,  
AND TO PROVIDE FOR THE REPAIR OR DEMOLITION THEREOF

THE CITY OF ISHPEMING ORDAINS:

Section 7-101. This ordinance shall be known and may be cited as the "Unsafe Building Ordinance".

Section 7-102. It shall be unlawful for the owner of any building or structure, and the owner of the real estate upon which any building or structure is situated, to keep or maintain or to allow to continue to exist any dangerous building or structure in the City of Ishpeming. Under this Ordinance, the terms "building" or "structure" may be used interchangeably.

Section 7-103. A building or structure shall be considered a "dangerous building or structure" for the purposes of this ordinance if any of the following conditions exist:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code or building code enforced within the City of Ishpeming;
- (b) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe, or is less than the minimum requirements of this ordinance or any building code enforced within the City for a new building or similar structure;
- (c) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse, and thereby threaten the safety of persons or property;
- (d) Whenever any portion has settled, fallen, collapsed, or become dislodged, to such an extent that walls or other structural portions have materially less resistance to winds than new construction under the building code enforced within the City;
- (e)
  - i) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, 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 any other reason, is likely to partially or completely collapse;
  - ii) Whenever the foundation of the building or structure has been significantly weakened due to age, deterioration, neglect, the elements, or otherwise, or has holes, gaps, cracks, settlement, or any other physical condition which materially impairs the ability of the foundation to support the structure or to prevent insects, animals, rodents, or the elements from gaining access to the interior of the structure.
- (f) Whenever for any reason whatsoever the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is used, or is

manifestly unsafe for the purpose for which it is or was intended to be 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 or thereabouts to their danger, or as to afford a harbor for vagrants, criminals or homeless persons, or as to enable persons to resort thereto for the purpose of committing a nuisance, or dangerous, or unlawful acts;
- (h) Whenever a building or structure used or intended to be used for dwelling purposes, or human occupancy, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or occupancy, or is in a condition that is likely to cause sickness or disease, or is likely to work injury to the health, safety, or general welfare of those living within or having the right to occupy the structure, those living in neighboring structures, or to any other person;
- (i) Whenever any building or structure becomes vacant, dilapidated, or open at door, window, or otherwise, leaving the interior of the building or structure exposed to the elements, or accessible to entrance by trespassers, rodents, vermin, animals, or other wild life, or is open to casual entry;
- (j) If the building or structure has been totally or partially demolished, has totally or partially collapsed, or has been totally or partially destroyed by fire or other cause, whether or not debris or rubble is left at the site;
- (k) A structure that has been damaged as set forth in subparagraph (a)-(j) above to such an extent that the cost of repairs to place it in a safe, sound, and sanitary condition under any building code enforced within the City exceeds the current true cash value of the structure as reflected on the current City assessment tax rolls.

Section 7-104. Informal Resolution, Notice of Violation, Hearing.

- (a) When the City determines that a dangerous building or structure exists in the City of Ishpeming, City staff may attempt to rectify the condition by contacting the owner on an informal basis in an effort to have the necessary repairs made or to have the building or structure demolished. Such informal contact shall notify the owner that the building or structure is not in compliance with this Ordinance, and shall specify why the building or structure is not in compliance. If such informal contact does not result in alleviating the dangerous building or structure, or if City staff elects not to proceed on an informal basis, the City Manager may issue a written notice of violation, or the City Manager may enter into a written consent agreement for repairs with the property owner. In the enforcement of this Ordinance, City staff may enter upon any premises at all reasonable hours with the permission of the occupant or property owner to inspect the premises. Provided, however, that if the premises is vacant or abandoned and is unlocked and can be accessed without the use of force, City staff may enter without permission if there is a clear indication that any part of the structure is in danger of collapse or if there is an imminent threat to the public health, safety, or welfare.
- (b) The written notice of violation:

- i) shall specifically state that it is a notice of violation of City Ordinance No. 7-100;
- ii) shall include a description of the property by street address or legal description, which is sufficient to identify the property where the violation exists;
- iii) shall include a statement of the reason or reasons why it is being issued;
- iv) shall specify a deadline or date certain for completion of specifically enumerated repairs or corrective measures to bring the structure into compliance with the provisions of this Ordinance;
- v) Whenever the City Manager has determined that a structure is a dangerous building or structure and has determined that the cost of the repairs would exceed 100 percent of the true cash value of the structure as reflected on the City assessment tax rolls in effect at the time the notice of violation is issued, such repairs shall be presumed unreasonable, and it shall be presumed for the purpose of this subsection that such structure is a public nuisance which may be ordered demolished without option on the part of the owner to repair. This subsection is not meant to apply to those situations where a structure is a dangerous building or structure as a result of a catastrophic event, such as fire, windstorm, tornado, flood, or other Act of God. If a structure has become a dangerous building or structure because of a catastrophic event, the owner shall be given by the City Manager reasonable time within which to make repairs and the structure shall not be ordered demolished without option on the part of the owner to repair. If the owner does not make the repairs after the catastrophic event within the designated time period, then the structure may be ordered demolished without further option on the part of the owner to repair. The cost of demolishing the structure shall be a lien against the real property and shall be reported to the City Treasurer, who shall assess the cost against the property on which the structure is located. The terms "demolished" or "demolition" as used in this Ordinance shall include the removal and lawful disposal of all building materials, debris, and rubble from the site, and returning the site to the existing grade;
- vi) shall specify which repairs are structural in nature, and shall give the property owner at least sixty (60) days, but not more than one hundred eighty (180) days, to complete all structural repairs. The notice of violation shall also specify which repairs or corrective measures are non-structural in nature, and shall give the property owner at least thirty (30) days, but not more than sixty (60) days, to complete all non-structural repairs or corrective measures.
- vii. shall include a statement that the owner may seek modification or reversal of the notice of violation or the conditions imposed therein by filing an appeal with the City Clerk under the provisions of Section 7-105 below.

(c) Notwithstanding the provisions of subsections (b)(v) and (b)(vi) above, the City Manager may order the property owner to complete all repairs or corrective

measures or demolition within thirty (30) days after service of the notice of violation, if the City Manager determines that there is an imminent threat to the health, safety, or welfare of persons or property due to the condition of the building or structure, or if collapse of the building or structure is imminent. An imminent threat to the health, safety, or welfare of persons or property may include, but shall not be limited to, conditions which pose an environmental threat, such as the release or potential release of a hazardous substance (as defined at M.C.L.A. Section 324.20101), the release or potential release of asbestos into the air, ground, or surface or ground waters in the City, the potential or actual release or spread of any airborne contaminants dangerous to human health, such as dust, mold, spores, fungi, and similar contaminants which, if ingested or inhaled, would be harmful to human health.

- (d) The written notice of violation may be personally served upon the owner or owners of the building or structure; alternatively, such notice of violation may be served by mailing same to the last known address of the owner or owners, by certified mail, return receipt requested. Such notice of violation shall also be personally served in duplicate upon at least one occupant of the building or structure, if it is occupied, with a request that the occupant deliver one copy thereof to the owner. A copy of such notice of violation shall also be posted upon a conspicuous part of the building or structure. With respect to a building or structure on leased land, a copy of the written notice of violation shall also be mailed by certified mail, return receipt requested, to the owner of the real estate. A copy of such written notice of violation shall also be mailed by certified mail, return receipt requested, to each person holding a recorded mortgage against the property where the violation exists, if the City has or receives actual notice of the name and address of the mortgagee.
- (e) A certified copy of the written notice of violation may be recorded with the office of the Marquette County Register of Deeds. After such recordation, all purchasers, transferees, and grantees of the owner or owners of record of the real property affected by the notice of violation, and all successors in interest to legal title to such property shall take title to such property subject to the notice of violation, shall be bound by the notice of violation, and shall be required to comply with the notice of violation in the same manner as the owner of the property at the time the notice of violation was posted upon the property.
- (f) In every case where a written notice of violation is issued, or a consent agreement to make repairs is entered into, the owner shall allow the City Manager and/or his designees to enter and inspect the building or structure at all reasonable times, on advance notice, so that the City can determine if the required repairs or corrective measures have been or are being completed within the timeframe or period required under the notice of violation. Failure of the owner to allow such access shall result in a forfeiture of the owner's right to make repairs, may result in criminal prosecution under Section 7-109, and may result in the issuance of an immediate order for demolition by the City Manager if the City Manager has determined that the cost of repairs exceeds the current true cash value of the building or structure.

Section 7-105. Right to Hearing.

- (a) An owner of the premises who is served with a written notice of violation shall

have the right to appeal such notice of violation, and to have a hearing concerning the matter before the Hearing Board.

- (b) An owner who wishes to appeal a notice of violation shall file an appeal with the Ishpeming City Clerk within twenty-one (21) days after the written notice of violation was served. An appeal filing fee in the amount of \$150.00 shall be paid to the Ishpeming City Clerk within the time for filing an appeal. The date of service of the notice of violation shall be deemed to be the date of personal service of the written notice, the date of receipt of the written notice as evidenced by the return receipt if the notice was served by certified mail, or the date the written notice was posted on the building or structure, whichever is later. The appeal shall state with particularity the grounds or reasons therefor. Failure to timely file an appeal or to timely pay the appeal filing fee shall invalidate an appeal.
- (c) If an appeal is timely filed and the appeal filing fee is timely paid:
  - (i) the corrective action called for in the written notice of violation shall be stayed until the decision of the Hearing Board is final; and
  - (ii) the City Clerk shall set the matter for hearing before the Hearing Board and shall give all interested parties at least thirty (30) days written notice thereof prior to the hearing date.
- (d) If an appeal is not timely filed, or if the appeal filing fee is not timely paid, the written notice of violation shall be final, and the corrective measures called for therein shall be completed within the time period set forth in the written notice of violation.

Section 7-106. Hearing, Testimony, Decision.

- (a) The hearing referred to in Section 7-105 of this Ordinance shall be a hearing before the City Council sitting as the Hearing Board. The Mayor or his duly appointed delegate shall act as the presiding officer of the Hearing Board.
- (b) The Hearing Board may take testimony from the City Manager, from the Code Enforcement Officer charged with enforcing this Ordinance, from the owner of the building or structure and the owner of the real estate upon which the building or structure is located, if they are present at the hearing and wish to testify, and from any other person having personal knowledge of the condition of the building or structure. The Hearing Board shall cause a record to be made of the proceedings. Said record may be by tape recording or by other electronic recording device.
- (c) The Hearing Board shall not be bound by the strict rules of evidence, and may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (d) The owner of the structure and the owner of the real estate shall have the right to be represented by an attorney at the hearing, to present evidence, and to cross-examine witnesses.
- (e) The Hearing Board may take testimony from a licensed contractor regarding the cost of making repairs and corrections or it may consider written repair

estimates from a licensed contractor, and it shall consider written or oral evidence from the City Assessor regarding the true cash value of the building or structure, and in no case shall the Hearing Board order demolition of the building or structure or affirm the order of the City Manager to require demolition unless the cost of repairs or corrections exceeds the true cash value of the building or structure.

- (f) The Hearing Board shall make a decision in writing within twenty-one (21) days after the close of the hearing, which decision shall be supported by competent, substantial and material evidence on the whole record, and which decision shall order that the written notice of violation be complied with or be dismissed, or order the building or structure to be demolished or otherwise be made safe, with specific repairs or corrections enumerated if required by the Hearing Board, or order such other action as the Hearing Board may determine. The decision shall fix a time for the owner to either demolish the building or structure or to complete the repairs or corrections required, which time shall be at least thirty (30) days after the date of mailing the decision. The decision shall be binding upon the owner of the structure and the owner of the real estate where the structure is located. The decision shall be served upon the owner of the structure, and upon the owner of the real estate if the same person does not own both the real estate and the structure, by first class mail, and the decision shall be posted on the outside of the building or structure in a conspicuous place. If an interested party has appeared at the hearing by an attorney, the decision shall also be served upon the attorney by first class mail. A copy of the decision shall also be filed in the office of the City Clerk and may be recorded in the Office of the Marquette County Register of Deeds.

Section 7-107. Compliance and Enforcement.

- (a) If the owner of the structure, or the owner of the real estate, shall fail to take the necessary action specified in the written notice of violation or the decision of the Hearing Board within the time specified therein, the City Manager may enforce the written notice of violation or the decision by arranging to have the necessary repairs, correction work or demolition completed at the expense of the City. All costs of such work or demolition shall be a debt owed to the City by the owner of the building or structure and by the owner of the real estate upon which the building or structure is located. If an appeal has been timely taken to the Hearing Board, no such repairs, correction or demolition shall be undertaken by the City until the decision of the Hearing Board has become final.
- (b) When such work or demolition has been completed and paid for by the City, the City shall give written notice thereof to the owner of the structure, and to the owner of the real estate, and shall demand reimbursement for all such expenses incurred by the City.
- (c) The costs of repair or demolition shall be a lien against the structure and against the real property upon which the structure is or was situated, and shall be reported to the City Treasurer, who shall charge the aforesaid costs and expenses against the structure and against the real property on which the building or structure is or was situated by adding said costs to the current real property tax roll. Such costs and expenses, when added to the tax roll, shall be collected in the same manner in all respects as provided by law for

the collection of real property taxes levied by the City.

- (d) If a property owner demolishes a building or structure at the request of the City, or is unable to do so or to remove the building debris or rubble from the property because of a hardship, physical infirmity, or other good cause, the City at the request of the property owner may enter upon the property, may undertake all necessary demolition work, and may remove and dispose of the debris and rubble, and may fill in any excavations, basement, crawl space, or holes so as to leave the property in a safe and neat condition, provided that written authorization to do so is received from the property owner. If the City undertakes such work, all costs of such work, including all landfill disposal fees and other expenses, shall be a debt owed to the City by the owner of the building or structure and by the owner of the real estate upon which the building or structure was located. After such work has been completed by the City, the City shall give written notice thereof, and of the costs and expenses incurred by the City, to the owner of the structure and to the owner of the real estate, and the City shall demand reimbursement. All costs and expenses incurred by the City shall be a lien against the real property upon which the building or structure was situated and shall be reported to the City Treasurer, who shall charge said costs and expenses against the real property on which the structure was situated by adding same to the current real property tax roll. Such costs and expenses, when added to the tax roll, shall be collected in the same manner in all respects as provided by law for the collection of real property taxes levied by the City.

Section 7-108. Judicial Review.

The owner of the structure or the owner of the real estate upon which the structure is situated may appeal the decision of the Hearing Board to the Marquette County Circuit Court by filing an appeal or a petition for an order of superintending control within twenty-one (21) days after the date on which the decision was mailed, and the filing of such petition shall operate to stay proceedings for enforcement of the decision until the further order of the Circuit Court. The decision of the Hearing Board shall become final twenty-one (21) days after the date of mailing unless judicial review is timely applied for.

Section 7-109. Penalty.

Failure to comply with any of the provisions of this Ordinance by failing to comply with a written notice of violation, a consent agreement to make repairs, or the decision of the Hearing Board, by failing to reimburse the City for its costs or expenses, or otherwise, shall constitute a municipal civil infraction punishable by a civil fine of not to exceed Five Hundred (\$500.00) Dollars, plus costs. Each day that a violation of this Ordinance continues shall constitute a separate offense, and shall be separately punishable hereunder. The Court shall also have the authority conferred under MCLA §600.8302(4) to issue any order necessary to enforce this Ordinance.

Nothing set forth in this Ordinance shall prevent the City from maintaining municipal civil infraction proceedings or City enforcement of the provisions of this Ordinance, or both, with respect to any dangerous building or structure in the City of Ishpeming.

Section 7-110. Effective Date.

This Ordinance shall become effective upon publication.

Adopted: September 3, 1980  
Amended: November 30, 1983  
Amended: September 5, 1984  
Amended: December 23, 1987  
Amended: November 21, 1990  
Amended: December 15, 1993  
Amended: April 5, 2000  
Amended: April 6, 2011  
Amended: June 6, 2012  
Amended: March 6, 2013  
Amended: June 4, 2014