

**TOWNSHIP OF JENKINS
LUZERNE COUNTY, PENNSYLVANIA
ORDINANCE NUMBER #4 of 2018**

AN ORDINANCE OF THE TOWNSHIP OF JENKINS, LUZERNE COUNTY, PENNSYLVANIA CREATING ORDINANCE TO BE ENTITLED “DANGEROUS STRUCTURES;” PROVIDING FOR THE REMOVAL, REPAIR, OR DEMOLITION OF ANY STRUCTURES DANGEROUS TO THE HEALTH, MORALS, SAFETY, OR GENERAL WELFARE OF THE PEOPLE OF THE TOWNSHIP OF JENKINS; FOR THE ASSESSMENT OF THE COST OF REMOVAL, REPAIR, OR DEMOLITION THEREOF AS A MUNICIPAL LIEN OR ASSESSMENT AGAINST SUCH PREMISES; PROVIDING FOR THE RECOVERY OF SUCH COSTS IN AN ACTION AT LAW; AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, in the Township of Jenkins there are and may be in the future, buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, and a menace to the health, morals, safety, and general welfare of the people of the Township, and which might tend to constitute a fire menace and which are a public nuisance;

WHEREAS, 53 P.S. 66533 authorizes a municipal board of supervisors by ordinance to require the owner to remove any nuisance or dangerous structure on public or private grounds after notice to the owner to do so; and said statute further authorizes a municipal board of supervisors, in the owner's default, to remove the nuisance or structure and collect the cost of the removal, together with the penalty imposed by the ordinance, from the owner by summary proceedings or under law for the collection of municipal liens;

WHEREAS, the Board of Supervisors of the Township of Jenkins enacts the following Ordinance pursuant to the above authority;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Jenkins, Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

SECTION 1.

That the Board of Supervisors of the Township of Jenkins does hereby amend the Township Zoning Book of Ordinances by creating Ordinance, “Abandoned Real Property” to read as follows:

DANGEROUS STRUCTURES

SECTION 2. DANGEROUS STRUCTURES DEFINED

All buildings or structures which have any or all of the following defects shall be deemed "dangerous structures":

a. Those which have been damaged by fire, wind, or other cause so as to have become dangerous to the life, safety morals, or the general health and Welfare of the occupants or the people of the Township of Jenkins.

b. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, 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 accidents, sickness, or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein as well as other citizens of the Township which will be determined by the Building Code Inspector and/or Township Engineer.

c. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property.

d. Those which, because of their general condition, are unsafe, dangerous, unsanitary, or a menace to the health, morals, safety, or general welfare of the people of the Township of Jenkins.

SECTION 3. DANGEROUS STRUCTURES AS NUISANCES

All "dangerous structures" within the terms of Section 2 of this Ordinance are hereby declared to be public nuisances and shall be removed, repaired, or demolished as hereinbefore and hereinafter provided.

SECTION 4. INVESTIGATION PROCEDURES

Whenever it shall be reported or come to the attention of any Township Official or Police Officer that any building or structure, completed or in the process of construction, or any portion thereof, is in a dangerous condition, such person having knowledge thereof shall report same to the Board of Supervisors, and the Board shall immediately cause an investigation and examination to be made of such building or structure. If such investigation or examination indicates such building or structure to be a "dangerous structure" in accordance with the standards of Section 1 of this Ordinance, a written report of such investigation shall be submitted to the Board of Supervisors, specifying the exact condition of such building or structure and setting forth whether or in what respect the

structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a dangerous structure.

SECTION 5. HEARING PROCEDURES

The Board of Supervisors shall:

a. Upon receipt of a report in accordance with Section 4 of this Ordinance, give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by land records in the Office of the Recorder of Deeds of Luzerne County, to appear before the Board on the date specified in the Notice to show cause why the building or structure reported to be a "dangerous structure" should not be removed, repaired, or demolished in accordance with the statement of particulars set forth in the Notice provided for herein in Section 7;

b. Hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee, or any other person having an interest in said building, shall offer relative to the "dangerous structure";

c. Make written findings of fact from the testimony offered pursuant to Paragraph (b) as to whether or not the building in question is a "dangerous structure" within the terms of Section 2 hereof;

d. Issue an order based upon findings of fact made pursuant to Paragraph (c) of this Section 5 demanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building to remove, repair, or demolish any building found to be a "dangerous structure" within the terms of this Ordinance.

SECTION 6. STANDARDS FOR REMOVAL, REPAIR, OR DEMOLITION

The following standards shall be followed in substance by the Board of Supervisors in ordering removal, repair, or demolition:

a. If the dangerous or dilapidated building or structure can be repaired as determined by a Committee composed of the Zoning Officer and all members of the Board of Supervisors, so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired;

b. If the dangerous or dilapidated building or structure is in such condition as to make it unsafe and dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered vacated;

c. In any case where a dangerous or dilapidated building or structure cannot be reasonably repaired as determined by a Committee as provided in Paragraph (a) of this Section, it shall be ordered demolished. In cases where a dangerous or dilapidated building or structure is a fire hazard existing or erected in violation of the terms of this Ordinance or any Statute of the Commonwealth of Pennsylvania, it shall be ordered demolished.

SECTION 7. ENFORCEMENT PROCEDURES

a. If any building or structure is deemed to be a "dangerous structure" within the standards set forth in Section 1 of this Ordinance, the Board of Supervisors shall forthwith cause written notice to be served upon the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the deed of registration in the Office of the Recorder of Deeds of Luzerne County, of any such dangerous structure.

b. The Notice required by this Section shall be served personally upon the owner of a dangerous building if the owner resides in the Township or personally upon his agent if such agent resides within the Township of Jenkins. If personal service as required herein cannot be obtained or if the owner resides outside of the Township, such Notice shall be sent to the owner of a dangerous structure by Registered Mail at the last known address thereof.

c. The Notice shall identify the building or structure deemed dangerous and contain a statement of the particulars which made this building or structure a dangerous building, and an Order requiring the same to be put in such condition as to comply with the terms of the Order issued under this Ordinance, provided in any case where the Notice prescribed the repair of any structure in lieu of making the repairs thereto within the time limits hereinafter set forth.

d. Such Notice shall require any person notified to repair, vacate, or demolish any building or structure to commence the work or act required by the Notice within thirty (30) days of such notice and to complete such repair or removal within ninety (90) days thereof.

e. The Board of Supervisors shall cause to be placed on all dangerous structures a Notice reading substantially as follows:

This building/structure has been found to be a "dangerous structure " by the Board of Supervisors of the Township of Jenkins. This Notice is to remain on this building/structure until it is repaired, vacated, or demolished in accordance with the Order and Notice which has been given to the owner, occupant, mortgagee, lessee, or agent of this building. It is unlawful to remove this Notice until compliance is made under the terms contained and the Order and Notice given to the above-named party.

SECTION 8. PENALTIES

a. The owner, occupant, mortgagee, lessee, agent, or any other person who shall fail to comply with any Notice or Order to repair, vacate, or demolish any such dangerous structure given by any person authorized by this Ordinance, or any regulation or Order issued thereunder, shall upon conviction before a District Magistrate be subject to a fine not exceeding One Thousand (\$1,000.00) Dollars plus costs. Each day's continuance of a violation shall constitute a separate offense. Penalties contained in this Section are in addition to any other remedies provided by law or by this Ordinance.

b. Any person removing the Notice provided for in Section 7, Paragraph (e) hereof, shall upon conviction before the District Magistrate, be subject to a fine not exceeding Fifty (\$50.00) Dollars and costs for each offense.

c. If the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by deed of registration in the Office of the Recorder of Deeds of Luzerne County, fails to comply with any Notice or Order to repair, vacate, or demolish any dangerous building within ninety (90) days, the Board of Supervisors is empowered, in its sole discretion, to cause such building or structure to be repaired, vacated, or demolished by the Township and to cause the costs of such repair, vacation, or demolition, together with a penalty

often (10%) per centum to be charged against the land on which the building existed as a municipal lien, or to recover such costs in a suit at law against the owner or other such person having an interest in the building. The recovery of such cost and expense, together with the penalty, may be in addition to the penalty imposed in Paragraphs (a) and (b) of this Section 8.

SECTION 9. EMERGENCY CASES

In cases wherein it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a "dangerous structure", as defined herein, the Board shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation, or demolition of such "dangerous structure" shall be collected in the same manner as provided for in Section 8, Paragraph (c).

SECTION 10. LEGAL REMEDIES

Any person, partnership or corporation who or which has violated provisions of this Ordinance shall upon being found liable therefor in a civil enforcement proceedings commenced by Jenkins Township, Zoning Officer, Building Code Inspector and/or Township Engineer, shall pay a judgement of a fine not exceeding One Thousand (\$1,000.00) Dollars plus costs, including reasonable attorney fees. Each day's continuance of a violation shall constitute a separate offense. No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Magistrate. If the Defendant neither pays nor timely appeals the judgement, Jenkins Township may enforce the judgement pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Magistrate determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violation this ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following date of determination of a violation by the District Magistrate and thereafter each day that a violation continues shall constitute a separate violation. All judgements, costs, and reasonable attorney fees collected for a violation of this Ordinance shall be paid over to Jenkins Township. Penalties contained in this Section are in addition to any other remedies provided by law or by this Ordinance.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.

Nothing contained in this section shall be construed or interpreted to grant any person or entity other than Jenkins Township the right to commence any action for enforcement pursuant to this section.

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 effect or impair any of the remaining

provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Township Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

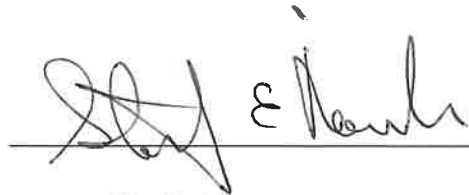
SECTION 12. REPEALING CLAUSE

Any Ordinance or part of Ordinance or Resolution heretofore adopted by the Township Supervisors is hereby repealed insofar as the same conflicts with or affects this Ordinance..

EFFECTIVE DATE. That this Ordinance shall take effect immediately after final passage.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of the Township of Jenkins, Luzerne County, Pennsylvania, this 08th day of August, 2018.

Jenkins Township Board of Supervisors:



Stanley Rovinski, Chairman

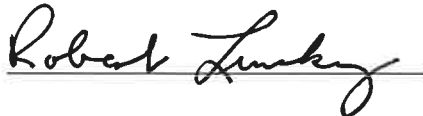


Joseph Sperrazza, V. Chairman




Robert Linskey, Sec./Treasurer

ATTEST:



Robert Linskey, Secretary/Treasurer



Barbara Fairchild, Manager