

VILLAGE OF PENINSULA, OHIO
ORDINANCE NO.: 7-2016
INTRODUCED BY: Don Schneider
DATE PASSED: August 8, 2016

**AN EMERGENCY ORDINANCE REPEALING SECTION 1301.07 AND ENACTING
CHAPTER 1311 OF THE BUILDING CODE RELATING TO UNSAFE AND
DANGEROUS BUILDINGS**

WHEREAS, in order to enhance the Village's authority to deal with vacant, neglected, and dangerous buildings and structures in the Village, Council desires to repeal Section 1301.07 of the Building Code and replace that section with a new Chapter 1311 of the Building Code relating to and regulating the above subjects.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Peninsula, Summit County, Ohio, to wit:

SECTION 1. That Council hereby and herein repeals Section 1301.07 and enacts Chapter 1311 of the Building Code as is set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That the rest and remainder of the Codified Ordinances of the Village shall remain as presently drafted unless they are inconsistent herewith.

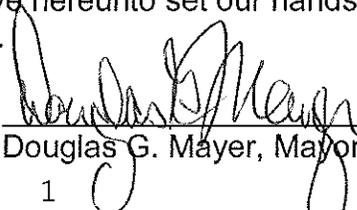
SECTION 3. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the residents of the Village of Peninsula for the reason that it will enhance the Village's authority to deal with vacant, neglected, and dangerous buildings in the Village and preserve the safety, aesthetic appearance, and property values of the Village, and therefore, this Ordinance shall take immediate effect upon its passage.

SECTION 5. Effective Date. This Ordinance shall take effect on the 8 day of August, 2016.

IN WITNESS WHEREOF, we have hereunto set our hands this 8 day of August, 2016.

Passed:



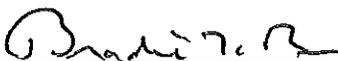
Douglas G. Mayer, Mayor

Attest:



John D. Stiegel, Fiscal Officer

Approved as to Legal Form.



Bradric T. Bryan, Solicitor

I, John D. Stiegel, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Ordinance was duly passed by the Council of the Village of Peninsula, at a meeting held on the 8 day of August, 2016.



John D. Stiegel, Fiscal Officer

Posting Certificate

I, John D. Stiegel, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, hereby certify that there is no newspaper published in the Municipality, and publication of the foregoing Ordinance was made by posting true and accurate copies thereof at five of the most public places in the Village as previously determined by Council, each for a period of at least fifteen days, commencing on the 15 day of August, 2016, as follows:

1. Terry Lumber & Supply;
2. Valley Fire District;
3. Peninsula Library & Historical Society;
4. Peninsula Village Hall Lobby; and
5. Peninsula Post Office.



John D. Stiegel, Fiscal Officer

1301.07 — UNSAFE BUILDINGS.

(a) — ~~Unsafe Buildings Defined.~~ Structures or existing equipment that are unsafe or unsanitary due to inadequate means of egress facilities, inadequate light or ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life, shall be deemed a serious hazard. Where a building is found to be a serious hazard, such hazard shall be eliminated or the building shall be vacated, and where such building, when vacated, remains a serious hazard, it shall be razed.

(b) — ~~Orders, Injunction Proceedings.~~ Where the Building Official finds that a building is a serious hazard and the owner of such building fails, in the time specified in an order from the Building Official, to eliminate such hazard, or to vacate or raise the building, the building official shall proceed under Ohio R.C. 3781.15.

(c) — ~~Restoration.~~ Where the structure or equipment is determined to be unsafe by the Building Official, it is permitted to be restored to a safe condition. To the extent that repairs, alterations, or additions are intended to be made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with Chapter 1 and 34 of the Ohio Building Code and this chapter.

CHAPTER 1311
Dangerous Buildings

<u>1311.01</u>	<u>Dangerous Building Defined.</u>
<u>1311.02</u>	<u>Dangerous Buildings; Nuisances.</u>
<u>1311.03</u>	<u>Agreement to Repair or Remove.</u>
<u>1311.04</u>	<u>Authority to Examine Premises; Remedial Order.</u>
<u>1311.05</u>	<u>Posting of Signs.</u>
<u>1311.06</u>	<u>Permits.</u>
<u>1311.07</u>	<u>Right to Demolish.</u>
<u>1311.075</u>	<u>Historic Review Before Demolition.</u>
<u>1311.08</u>	<u>Unsafe Conditions; Reports.</u>
<u>1311.09</u>	<u>Failure to Act; Remedy by Village; Costs Certified as Lien.</u>
<u>1311.10</u>	<u>Enforcement.</u>
<u>1311.11</u>	<u>Appeal to Board of Zoning Appeals.</u>
<u>1311.12</u>	<u>Structures Vacant and Open Entry.</u>
<u>1311.99</u>	<u>Penalty.</u>

1311.01 DANGEROUS BUILDING DEFINED.

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 thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) or more of damage or deterioration 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 have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the Municipality.

(e) Those which have become or are so dilapidated, decayed, unsafe, or 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 sickness or disease, so as to cause injury to the health, safety, or general welfare of those who live or may live therein.

(f) Those having light, air, and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.

(g) Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, or fire escapes.

(h) Those which have parts thereof that are so attached that they may fall and injure members of the public or property.

(i) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the Municipality.

(j) Those buildings existing in violation of any provisions of the Building Code, any provision of the Fire Prevention Code, or other applicable ordinances of the Municipality or State statutes.

(k) Those buildings which are vacant and unguarded at the doors and windows.

(l) Those buildings which are the site of a clandestine drug lab, and the damage from such drug lab is found to be so severe that clean-up alone is impractical or ineffective to reduce the associated health and safety risks.

1311.02 DANGEROUS BUILDINGS; NUISANCES.

As used in this chapter, all dangerous buildings within the terms of Section 1311.01 are hereby declared and shall be deemed to be public nuisances by reason of the condition in which the same are permitted to remain, in any one or more of the following particulars:

(a) By reason of being a nuisance to the general health of the community.

(b) By reason of being a fire hazard.

(c) By reason of being unsafe for occupancy or use on, in, upon, about, or around the aforesaid premises.

(d) By reason of being a nuisance, because of long-continued vacancy, lack of reasonable or adequate maintenance of the structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.

1311.03 AGREEMENT TO REPAIR OR REMOVE.

The record title holders and lienholders of the property may enter into an agreement with the Municipality to perform the repair or removal of an unsafe building.

1311.04 AUTHORITY TO EXAMINE PREMISES; REMEDIAL ORDER.

(a) The Building Official, or a person delegated by him, shall be empowered to examine or cause to be examined any building or dwelling within the Municipality, to determine whether such building or dwelling is dangerous, unsafe, or constitutes a nuisance, as provided by this chapter, and may apply to a court of competent jurisdiction for an administrative search warrant to enter said premises for inspection.

(b) The Building Official shall examine or cause to be examined every building or structure or portion thereof reported or believed to be a dangerous building. Unless another deadline is established under this chapter, the owner shall comply with the notice of violation within thirty (30) days. The Building Official shall give written notice to the record title holders and lienholders of the property by personal service or by regular First Class U.S. Mail and shall post signs on the dangerous building in accordance with Section 1311.05 of the Building Official's intent to repair or remove the building. If any

emergency exists, notice may be given by the above means fifteen (15) days prior to repair or removal.

If personal service is not obtained and the notice of violation is returned as undeliverable by the USPS, the Building Official shall cause the notice of violation to be made by publication in a newspaper of general circulation in the Municipality. The publication shall be published at least once a week for four (4) consecutive weeks and shall contain the name, address, and phone number of the office of the Building Official, the address of the dangerous building, the name and last known address of the owner of the dangerous building, a summary statement that the building has been determined to be dangerous and that the building must be repaired or removed, and that the owner is required to contact the Building Official and comply with the notice of violation within fifteen (15) days after the last date of publication.

The Building Official may grant an extension of time for compliance with the notice of violation upon the owner's written request and for good cause shown.

(c) It shall be unlawful for the owner of any dwelling unit or structure who has received a notice pursuant to paragraph (b), or whom a notice of violation has been served, to sell, transfer, lease, mortgage, or otherwise dispose of property to another until the provisions of the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee with such notice of violation issued by the Building Official and furnish the Building Official with a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility, without condition, for making the corrections or repairs required by such notice of violation.

1311.05 POSTING OF SIGNS.

The Building Official shall cause to be posted at each entrance to such building or structure or portion thereof a notice reading: "DO NOT ENTER. UNSAFE TO OCCUPY. BUILDING OFFICIAL, VILLAGE OF PENINSULA, OHIO." Such notice shall include the date of posting and a deadline as established in Section 1311.04(b) of this Code. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without permission of the Building Official or for any person to enter the building, except for the purpose of making the required repairs or demolishing the same.

1311.06 PERMITS.

In all cases of construction or repair pursuant to orders of the Building Official, permits covering such work shall be obtained as required.

1311.07 RIGHT TO DEMOLISH.

In case the owner of record, or the purchaser under a land contract if that be the case, shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or demolish and remove said building or structure, or portion thereof, such party, either the owner or record or the purchaser under land contract, shall be subject to the penal provisions of this Building Code, and the Building Official shall proceed to have the building or structure, or portion thereof, demolished and removed from the premises,

leaving the premises in a clean, safe, and sanitary condition, at the Municipality's costs. If the Municipality is not immediately reimbursed for such costs, the "total cost" as defined in O.R.C. 715.261(A) shall be collected as provided in O.R.C. 715.261(B)(1) or (2).

1311.075 HISTORIC REVIEW BEFORE DEMOLITION.

(a) Before any order for demolition is issued or any permit to demolish a structure is granted for any structure that is more than 100 years old or is located within the Village's Historic District, the demolition order or request must first be referred to the Planning Commission for a historic review of the structure.

(b) The Planning Commission shall then have up to 60 days from the date of the referral to determine whether the structure is historically significant. The Planning Commission may engage the assistance of organizations with expertise in this area to assist it in making its determination.

(c) If the Planning Commission finds that the structure is not historically significant, then the demolition order may be enforced or the demolition permit may be granted.

(d) In the event that the Planning Commission finds that the structure is historically significant, the Planning Commission may issue a determination that the demolition of the structure be delayed for up to an additional 180 days, or a longer period with the agreement of the property owner, to permit the exploration of preservation alternatives, such as: designating the structure as a historic landmark, finding a purchaser who may be interested in rehabilitating the structure, raising money to rehabilitate the structure, or finding alternate sites for the proposed post-demolition project.

(e) In making its determination that the structure is historically significant, the Planning Commission shall consider the following factors: (1) the structure's architectural and design significance; (2) whether the building is one of the last remaining examples of its kind in the neighborhood, Village, or region; (3) whether the structure has historical events or persons associated with it, and (4) the condition of the structure.

(f) The structure may be demolished at any time within or after the additional 180 day period specified in paragraph (d) hereof if the Planning Commission determines that, despite the structure's historical significance, there are no feasible alternatives to demolition. Factors to be considered in making a no feasible alternatives determination are the following: (1) realistic alternatives (including adaptive uses) are not likely because of the nature or cost of the work necessary to preserve the structure; (2) after a bona fide, reasonable effort, a purchaser for the structure or rehabilitation solution that will result in the preservation, rehabilitation, or restoration of the structure cannot be found; (3) economic hardship on the part of the property owner, making delaying the demolition request unreasonable; (4) the property is an imminent and substantial danger to the health and/or safety of the public due to its deteriorating condition; and (5) the structure has been burned or damaged by an event beyond the property owner's control with more than 50% of the structure affected.

1311.08 UNSAFE CONDITIONS; REPORTS.

Any owner, manager, lessee, or occupant of a building who discovers or who has reason to believe that there exists on the premises a condition that may endanger other property or the life or limb of any person, and such condition cannot be immediately remedied so as to remove any danger therefrom, shall, within twenty-four hours of such discovery, report the existence of such dangerous condition to the Building Official, who shall forthwith take such steps as may be necessary to protect the public safety and welfare. If the Building Official cannot be located, such report shall be made to the Mayor. No person who is an owner, manager, lessee, or occupant of a building on which premises such a dangerous condition exists and who knows of such dangerous condition shall fail to make such report to either the Building Official or Mayor within twenty-four hours after such knowledge is obtained.

1311.09 FAILURE TO ACT; REMEDY BY VILLAGE; COSTS CERTIFIED AS A LIEN.

Any and all costs incurred under this chapter shall be paid by the owner of such building or structure. The owner shall reimburse the Municipality for all expenses, including but not limited to the cost of securing, boarding, vacating, repairing, or demolishing the dangerous building.

If any person fails to comply with any lawful order of the Building Official within the time limit specified in such order, the Building Official shall cause such building to be secured, effectively boarded, vacated, repaired, or demolished, as the facts may warrant, under the standards provided for in this chapter. Council, with the assistance of the Building Official, shall cause the costs of such securing, boarding, vacating, repair, or demolition, including the costs of service or publication of notice, to be certified to the Village Fiscal Officer, who shall certify the aforesaid costs to the County Fiscal Officer, together with the proper description of the premises for placing the same on the tax duplicate, together with all interest and penalties allowed by law. From the date of entry, a lien shall vest on the premises in accordance with O.R.C. 715.261.

Notwithstanding the power and authority to certify a lien set forth in this section, nothing shall abrogate nor limit any other right of recovery the Municipality may have. The Solicitor shall take any action necessary to collect the costs incurred under this chapter from the owner or other responsible party.

1311.10 ENFORCEMENT.

The Building Official has full authority to apply for warrants, issue orders, compel repair or demolition, and any other act called for by this chapter.

1311.11 APPEAL TO BOARD OF ZONING APPEALS.

(a) Any owner, manager, lessee, or occupant of a building who has received an order from the Building Official to repair or demolish a structure under this chapter, may appeal that order within ten (10) days of receipt of notice of such order to the Board of Zoning Appeals by filing a written notice of appeal stating the reasons for the appeal and including an appeal fee of \$350.00. In lieu of including the \$350.00 appeal fee, appellees claiming that the payment of the appeal fee would constitute a hardship may include a written request for all or part of the appeal fee to be waived. Such request

shall include a written explanation supporting that hardship status request. In the event a request to waive the appeal fee is made, the Board shall schedule a hearing on the issue of the appeal fee as soon as practicable. If the appeal fee is waived in its entirety by the Board, the Board shall schedule the appeal of the Building Official's order pursuant to this Chapter for a hearing before the Board pursuant to subsection (b) of this section. In the event the Board determines the appeal fee should not be waived or decides a reduced fee amount should be paid, the appellee shall have ten days from the date of notification of the Board's appeal fee determination to pay the fee or reduced fee, whichever is applicable. Once the appeal fee is paid, the appeal of the Building Official's order shall be scheduled for a hearing before the Board pursuant to subsection (b) of this section.

(b) Upon receipt of an appeal commenced under section 1311.11(a), the Board of Zoning Appeals shall cause a meeting for the hearing of the appeal to be scheduled.

(c) On any appeal filed under Section 1311.11(a), the Board of Zoning Appeals may modify, reverse, or affirm the decision of the Building Official. All appeals shall be considered de novo.

(d) All appeals initiated under Section 1311.11(a) shall be filed in writing with the Village Administrative Clerk, who shall promptly forward the appeal to the Board of Zoning Appeals. Upon the submission of an appeal under this section, all orders of the Building Official shall be stayed, unless the Building Official certifies in writing that the order is in response to an emergency situation necessary for the immediate preservation of the health, safety, and welfare of the community.

1311.12 STRUCTURES VACANT AND OPEN ENTRY.

(a) Legislative Findings. Council finds that structures that are vacant and open to entry at doors, windows, or other points accessible to the general public:

- (1) Attract children to enter;
- (2) Become a harborage for vermin;
- (3) Serve as a temporary abode for vagrants and criminals;
- (4) Are likely to be damaged by vandals or set ablaze by arsonists;
- (5) Often become dilapidated because they are not repaired by the owners or persons in control of the structures;
- (6) Depress the market value of surrounding properties; and
- (7) Invite the dumping of garbage and rubbish thereupon.

(b) Building Official to Secure. Whenever the Building Official finds a vacant structure open to entry at doors, windows, or other points accessible to the general public, the Official may cause the structure to be secured at those points of entry. The Building Official shall be authorized at any time to enter upon the premises and secure the structure in order to lessen the severity of risk caused by the dangerous building. In securing such structure, the Building Official may call upon any department of the Municipality or whatever assistance may be necessary, and may, by private contract, secure such structure. Such securing shall not be deemed to constitute effective boarding pursuant to subsection (c) hereof, and shall not abate the necessity to repair or remove the dangerous building. The notice of violation shall include the fact that the Building Official has found it necessary to take appropriate action to secure the structure.

(c) Effective Boarding Pending Repair or Removal.

(1) Materials. The effective boarding of a structure shall include, but not be limited to, doors, windows, or other areas of the structure open to ingress or egress and to weather elements at any and all levels of the structure. Such opening shall be secured by plywood, not less than one-half inch thick, or other materials of equal strength, cut and fit into the openings. Openings in excess of forty-eight inches wide shall be framed by two inches on center onto frame. The plywood or equivalent material shall be fastened into the openings by screw type nail or lag screws.

(2) Maintenance. Upon effectively boarding the structure, the owner shall monitor and maintain the structure and its surrounding premises in a safe, sanitary, and secured condition. Any portion of the exterior structure that is deemed to be potentially hazardous due to deteriorated conditions or it being structurally unsound shall be removed or treated in such a manner so as to eliminate the hazard. The exterior premises shall be maintained free from high weeds, debris, junk vehicles, and conditions that may provide harborage for rodents. Failure of the owner to properly maintain the building in the above condition will result in the structure being deemed a public nuisance and scheduled for repair or removal.

(3) Rehabilitation. Rehabilitation shall commence on a time table approved by the Building Official. If rehabilitation of the effectively boarded building does not commence on the approved time table or if the permits are otherwise invalidated or revoked, then the Building Official may declare that the nuisance has not been abated and schedule the structure for repair or removal.

1311.99 PENALTY.

(a) Any owner of any dangerous building who fails to comply with any notice or order to repair, vacate, or demolish such building, given by any person authorized to give such notice or order, shall be guilty of a misdemeanor of the first degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(b) Any owner of a dangerous building who sells, transfers, mortgages, leases or otherwise disposes of property to another without compliance with Section 1311.04(c) shall be guilty of a misdemeanor of the first degree.

(c) Any occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair such building in accordance with any notice given as provided in this chapter shall be guilty of a misdemeanor of the second degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(d) Whoever violates Section 1311.05 of this chapter shall be guilty of a misdemeanor of the second degree for each offense. Each day of noncompliance with this chapter shall constitute a separate offense.

(e) Whoever demolishes a building without having a permit to do so or without permitting the historical review process provided for in Section 1311.075 to take place shall be guilty of a misdemeanor of the first degree.