

Memorandum



To: Mayor and Borough Assembly
CC: Borough Manager, Borough Clerk
From: Leo Luczak – Building Official *LL*
Date: 9/23/2013
Re: Dangerous Buildings – Scheduling of Noncompliance Hearings

I have determined the following structures to be Dangerous Buildings under PMC Chapter 9.20 (attached);

1011 Wrangell Avenue
701 Gjoa Street

I have informed the owners of building that the Building Official has determined that the structures are Dangerous Buildings via certified mail, and also posted a notice on each property. Both owners signed and acknowledged that received the certified mail. In both cases the owners have failed to come into compliance within 30 days as specified in the Notice of Dangerous Buildings. The owners of both buildings were first notified of these issues in the summer of 2012 and have failed to make necessary repairs despite numerous assurances that such repairs would be undertaken.

As the owners have failed to address the condition of their structures, the next step in the process is for the Building Official to request that the Borough Assembly schedule a Noncompliance Hearing as described in PMC 9.20.060. The Borough Attorney has been apprised of the lack of action regarding the Dangerous Buildings and has recommended that the Noncompliance Hearing be scheduled at least 40 days out to allow for the proper notification of the hearing.

I am notifying the Borough Assembly of noncompliance of the Notice of Dangerous Building as specified by PMC 9.20.050. I am requesting the scheduling of the Noncompliance Hearing at this time as specified by PMC 9.20.070. During the Noncompliance Hearing, and after notifying of the owners of the buildings, I will testify as to the conditions of the Dangerous Buildings.

Petersburg, Alaska, City Code of Ordinances >> - PETERSBURG, ALASKA >> Title 9 - HEALTH AND SAFETY
>> Chapter 9.20 - DANGEROUS BUILDINGS >>

Chapter 9.20 - DANGEROUS BUILDINGS

Sections:

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- 9.20.020 - Standards for repair, vacation or demolition.
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- 9.20.100 - City action upon failure to comply.
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- 9.20.170 - Violations—Penalties.

9.20.010 - 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 of its base;
- B. Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent 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, morals or the general health and welfare of the occupants or the people of the city;
- E. 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 sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
- F. Those having light, air and sanitation facilities which are inadequate to protect the

- health, morals, safety or general welfare of human beings who live or may live therein;
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;
- H. Those which have parts thereof which 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, morals, safety or general welfare of the people of the city;
- J. Those buildings existing in violation of any provision of the building code of the city, or any provision of the fire-prevention code, or other ordinances of the city.

(Ord. 291 § 5, 1973: prior code § 42.70.010)

9.20.020 - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building official and the city council in ordering repair, vacation, or demolition:

- A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where a dangerous building is fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter, or any ordinance of the city or statute of the state of Alaska, it shall be demolished.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.020)

9.20.030 - Unlawful.

- A. It is unlawful for any person, firm, association, club or corporation to have, keep or maintain within the city any building or other structure which is, or has become, a fire or health hazard, or a public nuisance.
- B. All dangerous buildings within the terms of [Section 9.20.010](#), declared to be public nuisances under [Chapter 9.16](#) of this code, shall be repaired, vacated or demolished as provided in this chapter.

(Ord. 291 § 5 (part), 1973: prior code §§ 42.60.030 and 42.70.030)

9.20.040 - Inspection duties of building official.

The building official, or his designated representative, shall:

- A. Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, and commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of [Section 9.20.010](#)
- B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter;
- C. Inspect any building, wall or structure reported by the fire or police department in the

manner provided in this chapter, as probably existing in violation of the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (1—3)))

9.20.050 - Notice duties of building official.

The building official, or his designated representative, shall:

- A. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in any building found by the building official to be a dangerous building within the standards set forth in Section 9.20.010 of this chapter that:
 1. The owner must vacate, or repair, or demolish the building in accordance with the terms of the notice and this chapter,
 2. The occupant or lessee must vacate the building, or may have it repaired in accordance with the notice and remain in possession,
 3. The mortgagee, agent or other person having an interest in the building may, at his own risk, repair, vacate or demolish the building, or have such work or act done;
- B. Set forth in the notice provided for in subsection A of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the 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 this chapter within thirty days of the date of notice; provided, however, that any person so notified may petition the city council for a thirty-day extension of time in which to comply with the provision of the notice;
- C. Report to the council any noncompliance with the notice provided for in subsections A and B;
- D. Appear at all hearings conducted by the council, and testify as to the conditions of dangerous buildings;
- E. Place a notice on all dangerous buildings reading as follows:

This building has been found to be a dangerous building by the building official. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in such building. It is unlawful to remove this notice until such notice is complied with.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.040 (part (4—8)))

9.20.060 - Noncompliance hearing—Before city council.

For every case of noncompliance with the notice provided for in this chapter reported by the building official, the city council shall hold a hearing and hear testimony as the building official, or the owner, occupant, mortgagee, lessee or any other persons having an interest in the building, shall offer relative to the dangerous building.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.050)

9.20.070 - Noncompliance hearing—Notice.

Upon receipt of a report of the building official as provided for in Section 9.20.050(C) of this chapter, the city council shall give notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to appear before the council on the date specified in

the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building officials' notice provided for in [Section 9.20.050\(B\)](#).

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.060)

9.20.080 - Noncompliance hearing—Findings of city council.

The city council shall make written findings of fact from the testimony offered at the hearing as to whether or not the building in question is a dangerous building within the terms of [Section 9.20.010](#).

(Ord. 291 § 5 (part), 1973: prior code § 42.70.070)

9.20.090 - Issuance of order to repair, vacate or demolish.

In the event the city council determines in its findings of fact that the building in question is in fact a dangerous building within the terms of [Section 9.20.010](#), the council shall issue an order based upon its findings commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building to repair, vacate or demolish the building within such time period and upon such terms and conditions as the council may prescribe. Any person not the owner of the dangerous building but having an interest in the building, may demolish such dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the city as provided in [Section 9.20.100](#).

(Ord. 291 § 5 (part), 1973: prior code § 42.70.080)

9.20.100 - City action upon failure to comply.

If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in [Section 9.20.090](#) within the time established by the city council for such compliance, then the council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards provided for in [Section 9.20.020](#).

(Ord. 291 § 5 (part), 1973: prior code § 42.70.090)

9.20.110 - Costs of repair, vacation or demolition.

- A. In the event that any building is repaired, vacated or demolished as provided for in [Section 9.20.100](#), the costs thereof shall constitute a lien in favor of the city upon the land on which the building existed, and such lien shall be enforced and foreclosed as provided by ordinances of the city relating to the enforcement and foreclosure of ad valorem tax liens.*
- B. In addition to the provision of subsection A as to liens, the owner of the land upon which the building existed shall be personally liable for such costs of repair, vacation or demolition, and such liability may be enforced in a personal action brought by the city against such property owner in the courts of the state of Alaska.
- C. In any case where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of the city, the city may institute any appropriate action or proceedings against the owner of the land upon which the building existed to force such owner to make all necessary repairs or demolish the building.
- D. If any person becomes obliged under the provisions of this chapter to demolish any building or other structure, then he shall likewise be obliged to remove from the land upon which such

building is or was situated all debris and other property (except permanent foundations) resulting from or related to such demolition.

- E. None of the provisions contained in this section shall be deemed exclusive of any of the others, or of any other remedies that the city may have at law.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.100)

* Editor's Note: Provisions on the foreclosure of ad valorem tax liens are found in Ch. 9.24

9.20.120 - Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined in Section 9.20.010 is immediately repaired, vacated or demolished, the building official shall report such facts to the city council, and the council shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition shall be collected in the same manner as provided in Section 9.20.110.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.110)

9.20.130 - Manner of notice when owner absent.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for in this chapter shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in the building, as shown by the land records of the Petersburg Recording District, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.120)

9.20.140 - Administrative liability denied.

No officer, agent or employee of this city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of this city as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.130)

9.20.150 - Duty to report—Fire department.

The members of the fire department shall make a report in writing to the building official of all buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.140)

9.20.160 - Duty to report—Police department.

All police officers shall make a report in writing to the building official of any buildings or structures which are, or may be, or are suspected to be dangerous buildings within the terms of this chapter.

(Ord. 899 § 3 (part), 2006; Ord. 291 § 5 (part), 1973: prior code § 42.70.150)

9.20.170 - Violations—Penalties.

- A. The owner of any dangerous building who fails to comply with any notice or order to repair or vacate or demolish the building, given by any person authorized by this chapter to give such notice or order, shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days, or both. Each and every day that a person fails to so comply beyond the date fixed for compliance shall constitute a separate offense.
- B. The occupant or lessee in possession who fails to comply with any notice to vacate or fails to repair the building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor. Each and every day that such person fails to comply beyond the date fixed for compliance shall constitute a separate offense.

(Ord. 291 § 5 (part), 1973: prior code § 42.70.160)

June 21, 2012

Via Certified Mail, Return Receipt Requested

Fred Triem and Karen Ellingstad
P.O. Box 129
Petersburg, AK 99833

Re: **Notice of Dangerous Building – 1011 Wrangell Avenue**

Dear Fred and Karen:

In accordance with Petersburg Municipal Code ("PMC") Section 9.20.050, you are hereby notified that the building located at 1011 Wrangell Avenue in Petersburg, which we understand is owned by one or both of you, has been deemed a dangerous building under PMC Section 9.20.010.

Exclusive of the piling foundation, which has failed, the building suffers thirty-three percent or more of damage or deterioration to the supporting member or members, and therefore violates PMC Section 9.20.010(B). In contravention of PMC Sections 9.20.010(E) and (I), the building has become so dilapidated and decayed that it is unfit for human habitation, unsafe, and dangerous to the health, safety, morals, and general welfare of the people of the City of Petersburg. As a result of its collapsed foundation, the building doesn't conform with the International Building Code requirements for dwellings, and therefore violates PMC Section 9.20.010(J) as well.

Pursuant to PMC Section 9.20.050(A)(1), you must put the building in such condition as to comply with the terms of PMC, Chapter 9.20, within thirty days of the date of this notice. You also have the right to petition the City Council for an additional thirty day extension of time in which to comply with the provisions of this notice. Please be advised that should you fail to bring the building into compliance within the time period allotted, the City shall proceed with all enforcement measures available to it under the Petersburg Municipal Code and state law.

Sincerely,

Leo Luczak, Director of Community
Development/Building Official

cc: Kristen P. Miller, Dillon & Findley, PC



CITY OF PETERSBURG

COMMUNITY DEVELOPMENT

P.O. BOX 329 • PETERSBURG, ALASKA 99833

PHONE (907) 772-4532

FAX (907) 772-4876

August 1, 2012

Via Certified Mail, Return Receipt Requested

Fred Triem and Karen Ellingstad
P.O. Box 129
Petersburg, AK 99833

Re: **Notice of Dangerous Building – 1011 Wrangell Avenue**

Dear Fred and Karen:

I am in receipt of your letter dated July 25, 2012 requesting an additional 30 days to address the DANGEROUS BUILDING located at 1001 Wrangell Avenue. You note that you are actively seeking solutions to the problem, and that you have requested advice and estimates from contractors, but you have not yet been able to schedule any work on the project.

In consideration of these developments I am willing to grant a one-time extension of 30 days to allow you to follow through with the contractors and schedule the work. This would place the date that you need to come into compliance as **August 30, 2012**.

I will be reporting on this status of the dangerous building at the next Planning and Zoning Commission. The meeting is scheduled for August 30, 2012 at 7:00 PM in the City Council Chambers. If you wish you are welcome to attend and answer any questions and/or concerns the member may have.

Sincerely,

Leo Luczak
Director of Community Development/Building Official

cc: Kristen P. Miller, Dillon & Findley, PC

June 26, 2013

Via Certified Mail, Return Receipt Requested

Fred Triem and Karen Ellingstad
P.O. Box 129
Petersburg, AK 99833

Re: **Notice of Dangerous Building – 1011 Wrangell Avenue**

Dear Mr. Triem and Ms. Ellingstad:

As set out in my earlier letter to you, dated June 21, 2012, and in accordance with Petersburg Municipal Code (“PMC”) 9.20.050, you were notified that the building located at 1011 Wrangell Ave. in Petersburg had been deemed a dangerous building under PMC Section 9.20.010.

Exclusive of the piling foundation, which has failed, the building suffers thirty-three percent or more of damage or deterioration to the supporting member or members, and therefore violates PMC Section 9.20.010(B). In contravention of PMC Sections 9.20.010(E) and (I), the building has become so dilapidated and decayed that it is unfit for human habitation, unsafe, and dangerous to the health, safety, morals, and general welfare of the people of the City of Petersburg. As a result of its collapsed foundation, the building doesn’t conform with the International Building Code requirements for dwellings, and therefore violates PMC Section 9.20.010(J) as well.

Pursuant to PMC Section 9.20.050(A)(1), you must either demolish the building and properly dispose of the debris, or put the building in such condition as to comply with the terms of PMC, Chapter 9.20, within thirty days of the date of this notice. You also have the right to petition the Borough Assembly for an additional thirty day extension of time in which to comply with the provisions of this notice. Please be advised that should you fail to bring the building into compliance within the time period allotted, I shall make a report to the Borough Assembly requesting that the Borough proceed with all enforcement measures available to it under the Petersburg Municipal Code and state law.

Sincerely,

Leo Luczak,
Director of Community Development/Building Official

cc: Steve Giesbrecht, Borough Manager
Susan Thomason, Planning and Zoning Commission Chair

**Karen Ellingstad
Box 129
Petersburg, Alaska 99833**

25 July 2013

Mr. Leo Luczak
Building Official
City of Petersburg
Box 229
Petersburg, Alaska 99833

Hand-delivered

In re: Wrangell Avenue Property

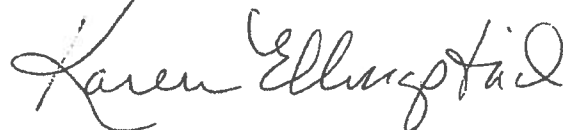
Dear Leo:

Your letter of 26 June arrived while Fred and I were out of town on an extended business trip, hence the modest delay in this response.

We have consulted with an engineer in Juneau about our house at 1011 Wrangell Ave., and he has come down to Petersburg to visit the site and view the building. We also have retained a builder, Mr. Joshua Adams, to address the issues that you have raised in your recent letter. I understand that he met with you today. Joshua has indicated that he can start work in early September.

Because Joshua is undertaking curative measures, we ask that you take no further action of the sort discussed in the final paragraph of your recent letter.

Sincerely,



Karen Ellingstad

2013/07/25
R-20



July 29, 2013

Via Certified Mail, Return Receipt Requested

Karen Ellingstad

P.O. Box 129

7012 0470 0000 4612 9344

Petersburg, AK 99833

Dear Karen,

I am in receipt of your letter dated July 25, 2013, requesting an extension to address the Notice of Dangerous Building that was issued on June 26, 2013 as to the structure located at 1101 Wrangell Avenue. The Borough's first notice in this matter was issued over a year ago, on July 21, 2012, in response to which you requested an extension. At that time, a 30 day extension was granted.

I met with your contractor, Joshua Adams, on July 25, 2013. I explained to him that you would need to present a definite plan for addressing the dangerous building, with a firm starting date for the project. The letter you submitted after that meeting does not meet these requirements.

Under section 9.20.050B, your recent extension request will be submitted to the Assembly. Please be advised that I will not be recommending that an extension be granted at this time due to a lack of a specific plan and completion date.

Please contact my office if you would like to submit a detailed plan with a starting and completion date and I will report that to the Borough Assembly. Lacking that, I will present your July 25, 2013 request for an extension to the Assembly at its meeting on August 5, 2013, along with my recommendation to decline that request.

Sincerely,

Leo Luczak – Building Official

Community Development

PO Box 329, Petersburg, AK 99833 – Phone (907)-772-4533 Fax (907) 772-4876

www.ci.petersburg.ak.us



September 13, 2013

Via Regular and Certified Mail, Return Receipt Requested

Karen Ellingstad
P.O. Box 129
Petersburg, AK 99833

Re: 1011 Wrangell Avenue

Dear Karen,

I have heard nothing further from you since your letter of July 25, 2013, and it does not appear that your contractor commenced work in early September, as your letter indicated he would.

Please be on notice that I will present your July 25, 2013 letter to the Assembly at its September 27th meeting, along with my report of noncompliance and request that a noncompliance hearing be scheduled.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "LL" or "Leo Luczak", written in a cursive style.

Leo Luczak – Building Official



June 26, 2013

Via Certified Mail, Return Receipt Requested

Paul Prevatt
P.O. Box 1316
Petersburg, AK 99833

Re: **Notice of Dangerous Building – 701 Gjoa Street**

Dear Mr. Prevatt:

As set out in my earlier letter to you, dated October 5, 2012, and in accordance with Petersburg Municipal Code (“PMC”) 9.20.050, you were notified that the building located at 701 Gjoa Street in Petersburg had been deemed a dangerous building under PMC Section 9.20.010.

The building has been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city, and therefore violates PMC Section 9.20.010(E); In contravention of PMC Sections 9.20.010(E) and (I), the building has become so dilapidated and decayed that it is unfit for human habitation, unsafe, and dangerous to the health, safety, morals, and general welfare of the people of the City of Petersburg.

Pursuant to PMC Section 9.20.050(A)(1), you must either demolish the building and properly dispose of the debris, or put the building in such condition as to comply with the terms of PMC, Chapter 9.20, within thirty days of the date of this notice. You also have the right to petition the Borough Assembly for an additional thirty day extension of time in which to comply with the provisions of this notice. Please be advised that should you fail to bring the building into compliance within the time period allotted, I shall make a report to the Borough Assembly requesting that the Borough proceed with all enforcement measures available to it under the Petersburg Municipal Code and state law.

Sincerely,

Leo Luczak,
Director of Community Development/Building Official

cc: Steve Giesbrecht, Borough Manager
Susan Thomason, Planning and Zoning Commission Chair

To city of Petersburg

Rock N road will clean up 701 & JOA
in aprox 2 weeks

Paul D. Bravett July 23-2013



September 13, 2013

Via Regular and Certified Mail, Return Receipt Requested

Paul Prevatt
P.O. Box 1316
Petersburg, AK 99833

Re: 701 Gjoa Street

Dear Mr. Prevatt:

I have heard nothing further from you since your letter of July 23, 2013. You stated that the clean up work would commence in approximately two weeks. It has now been eight weeks, and it does appear that any work has been started.

Please be on notice that I will present to the Assembly, at its September 27th meeting, my report of noncompliance, and request that a noncompliance hearing be scheduled.

Please feel free to contact me if you have any questions.

Sincerely,

Leo Luczak – Building Official