

## DANGEROUS BUILDINGS ORDINANCE

Ord. No. 714

Adopted: September 8, 2009

### THE CHARTER TOWNSHIP OF FENTON, GENESEE COUNTY, MICHIGAN, ORDAINS:

#### SECTION 1. Title

This Ordinance shall be known and cited as the Fenton Charter Township Dangerous Buildings Ordinance.

#### SECTION 2. Definitions

- A. **"Dangerous building"** means any building or structure, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:
1. A door, aisle, passageway, stairway or other means of exit does not conform to the Township Fire Code or Township Building Code.
  2. A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of Michigan, Public Act 167 of 1917, as amended, (MCL 125.401, *et seq.*), or the Township Building Code for a new building or structure, purpose or location.
  3. A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.
  4. A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the Housing Law of Michigan, Public Act 167 of 1917, as amended, (MCL 125.401, *et seq.*), or the Township Building Code.
  5. The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
  6. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used.
  7. The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
  8. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of the county determines is likely to cause sickness or disease, or

is likely to injure the health, safety or general welfare of people living in the dwelling.

9. A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
10. A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the Occupational Code, Public Act 299 of 1980, (MCL 339.2501, *et seq.*), or is not publicly offered for sale by the owner. This subdivision does not apply to either of the following:
  - a. A building or structure if the owner or agent does both of the following:
    - i. Notifies the County Sheriff's Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the County Sheriff's Department by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
    - ii. Maintains the exterior of the building or structure and adjoining grounds in accordance with this Ordinance and the Housing Law of Michigan, Public Act 167 1917, as amended, (MCL 125.401, *et seq.*), or the Township Building Code
  - b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the County Sheriff's Department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the County Sheriff's Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling such as a vacation home, hunting cabin or summer home, that is occupied by the owner or a member of the owner's family during part of year.
- B. **"Enforcing agency"** means this Township, through the Township Building Official and/or such other official(s) or agency as may be designated by the Township Board to enforce this Ordinance.
- C. **"Township Building Code"** means the building code administered and enforced in the Township pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, (MCL 125.1501, *et seq.*).

### **SECTION 3. Prohibition of Dangerous Buildings**

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this Ordinance.

### **SECTION 4. Notice of Dangerous Building; Hearing**

- A. **Notice Requirement.** Notwithstanding any other provision of this Ordinance, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building
- B. **Parties Entitled to Notice.** The notice shall be served on each owner of, or party

with interest in, the building or structure in whose name the property appears on the last local tax assessment records of the Township.

- C. **Contents of Notice.** The notice shall:
  - 1. specify the time and place of a hearing on whether the building or structure is a dangerous building
  - 2. state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- D. **Service of Notice.** The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served upon a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing.

#### **SECTION 5. Dangerous Building Hearing Officer; Duties; Hearing; Order.**

- A. **Appointment of Hearing Officer.** The Hearing Officer shall be appointed by the Township Supervisor and shall serve at their discretion. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.
- B. **Filing Dangerous Building Notice with Hearing Officer.** The enforcing agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.
- C. **Hearing Testimony and Decision.** At a hearing prescribed by this Ordinance, the Hearing Officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained. A record of the hearing shall be prepared and maintained by the Township.
- D. **Compliance with Hearing Officer Order.** If the Hearing Officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the Hearing Officer shall so order, fixing a time for the owner, agent or lessee to comply with the order. If the building is a dangerous building under Section 2.A.10. of this Ordinance, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees and shrubs.
- E. **Noncompliance with Hearing Officer Order/Request to Enforce Order.** If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under Section 5.D. of this Ordinance, the Hearing Officer shall file a report of the findings and a copy of the order with the Township Board not more than 5 days after noncompliance by the owner and request that necessary action be taken to enforce the order. The Dangerous Building Board of Appeals pursuant to Section 9 of this Ordinance, the Hearing Officer shall file the report of the findings and a copy of the order with the Dangerous Building Board of Appeals and request that necessary action be taken to enforce the order. A copy

of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in Section 4.D. of this Ordinance.

#### **SECTION 6. Enforcement Hearing Before the Township Board or Dangerous Building Board of Appeals**

The Dangerous Building Board of Appeals shall fix a date not less than 30 days after the hearing prescribed in Section 5.C. of this Ordinance for a hearing on the findings and order of the Hearing Officer, and shall give notice to the owner, agent or lessee in the manner prescribed in Section 4.D. of this Ordinance of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The Dangerous Building Board of Appeals shall either approve, disapprove or modify the order. If the Dangerous Building Board of Appeals approves or modifies the order, the Township Board shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the Dangerous Building Board of Appeals determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

#### **SECTION 7. Implementation and Enforcement of Remedies**

- A. **Implementation of Order by Township.** In the event of the refusal or failure of the owner or party in interest to comply with the decision of the Township Board, or the Board of Appeals, as applicable, the Township Board may, in its discretion, contract for the demolition of the building, the making safe of the building or maintaining the exterior of the building, structure or grounds adjoining the building or structure.
- B. **Reimbursement of Costs.** The costs of the remedies outlined in Section 7.A. above, incurred by the Township to bring the property into conformance with this Ordinance shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.
- C. **Notice of Costs.** The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the Township Treasurer of the amount of the costs of the remedies outlined in Section 7.A. above, by first class mail at the address shown on the Township records.
- D. **Lien for Unpaid Costs.** If the owner or party in interest fails to pay the costs within 30 days after mailing by the Township Treasurer of the notice of the amount of the cost, the cost of such payment shall be charged against the premises and it shall become a lien on the land or property assessed of the same character in effect as the lien created by general law for taxes, until paid.
- E. **Court Judgment for Unpaid Costs.** In addition to other remedies under this Ordinance, the Township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- F. **Enforcement of Judgment.** A judgment in an action brought pursuant to Section 7.E. of this Ordinance may be enforced against assets of the owner other than the building or structure.

## **SECTION 8. Sanction for Nonconformance with Order**

Any person or other entity who fails or refuses to comply with an order approved or modified by the Dangerous Building Board of Appeals, under Section 6 of this Ordinance within the time prescribed by that Section shall be guilty of a misdemeanor. Upon conviction thereof before any court of competent jurisdiction, they shall be subject to punishment by a fine not to exceed five hundred (500) dollars, or by imprisonment not to exceed ninety (90) days, or both, and in addition, shall pay all costs of prosecution. Each day during which a violation continues shall be deemed to be a separate offense. The imposition of any fine, jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.

## **SECTION 9. Dangerous Building Board of Appeals**

- A. **Establishment and Duties.** The Township Board shall establish a Dangerous Building Board of Appeals to hear all of the cases and carry out all of the duties described in Section 6 of this Ordinance.
- B. **Membership.** The Dangerous Building Board of Appeals shall be appointed by the Township Board and shall consist of the following members:
  - 1. A building contractor;
  - 2. A registered architect or engineer;
  - 3. Two members of the general public;
  - 4. An individual registered as a Building Official, Plan Reviewer or Building Inspector under the Building Officials and Inspectors Registration Act, Public Act 54 of 1986, (MCL 338.2301, *et seq.*). The individual may not be an employee of the enforcing agency.
- C. **Terms.** Dangerous Building Board of Appeals members shall be appointed for 3 years, except that of the members first appointed, 2 members shall serve for 1 year, 2 members shall serve for 2 years, and 1 member shall serve for 3 years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.
- D. **Officers.** The Dangerous Building Board of Appeals annually shall select a Chairperson, Vice Chairperson and other officers that they consider necessary.
- E. **Quorum and Final Action Votes.** A majority of the Dangerous Building Board of Appeals members appointed and serving constitutes a quorum. Final action of the Dangerous Building Board of Appeals shall be only by affirmative vote of a majority of the board members appointed and serving.
- F. **Compensation and Expenses.** The Township Board shall fix the amount of any per diem compensation provided to the members of the Dangerous Building Board of Appeals. Expenses of the Dangerous Building Board of Appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the Township Board.
- G. **Open Meetings Act Applicable.** A meeting of the Dangerous Building Board of Appeals shall be held pursuant to the Open Meetings Act, Public Act 267 of 1976, as amended, (MCL 15.261, *et seq.*). Public notice of the time, date and place of the meeting shall be given in the manner required by the Open Meetings Act
- H. **Freedom of Information Act Applicable.** A writing prepared, owned, used, in the possession of, or retained by the Dangerous Building Board of Appeals in the performance of an official function shall be made available to the public pursuant to the Freedom of Information Act, Public Act 442 of 1976, as

amended, (MCL 15.231, *et seq.*).

**SECTION 10. Appeal of Township Board/ Dangerous Building Board of Appeals Decision**

An owner aggrieved by any final decision or order of the Township Board, or the Dangerous Building Board of Appeals, as applicable, under Section 6 of this Ordinance may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within 20 days from the date of the decision.

**SECTION 11. Severability**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect.

**SECTION 12. Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided that this Ordinance shall not be construed to repeal expressly or by implication any provision of the Township Building Code.

**SECTION 11. Effective Date**

This ordinance shall be published as required by law and shall take effect 30 days after its enactment and publication.

Enacted at a regular meeting of the Board of Trustees of the Charter Township of Fenton, held on the 8th day of September 2009.

**Bonnie Mathis, Supervisor**

**Robert Krug, Clerk**