

BEAVER CREEK TOWNSHIP ORDINANCE NO. 31

DANGEROUS BUILDING ORDINANCE

ADOPTED: 4/11/2005

EFFECTIVE: 5/21/2005

An ordinance to secure the public peace, health, safety and welfare of the residents and property owners of the Township of Beaver Creek, Crawford County, Michigan, by the regulation of dangerous buildings injurious to life or health; to provide for the means by way of hearings for making such buildings safe or for the demolition of such dangerous buildings; to provide for the appointment of a hearing officer; to provide penalties for the violation of said Ordinance; to provide for assessment of the cost of making said buildings safe or for the demolition of dangerous buildings; and to repeal all Ordinances and parts of Ordinances in conflict therewith.

THE TOWNSHIP OF BEAVER CREEK

CRAWFORD COUNTY, MICHIGAN

ORDAINS:

SECTION I

This ordinance shall be known and cited as the Beaver Creek Township Dangerous Buildings Ordinance.

SECTION II

As used in this ordinance, the term "dangerous building" means any building or structure, residential or otherwise, which has any of the following defects or is in any of the following conditions:

- A. Whenever any door, aisle, passageway, stairway or other means of ingress or egress does not conform to the Building Codes or Fire Codes effective within the Township, it shall be considered that such building does not meet the requirements of this Ordinance.
- B. Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structure strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Housing Law of the State of Michigan, being Act No. 167 of the Public Acts of 1917 as amended or the Building Codes governing the Township for a new building or similar structure, purpose or location.
- C. Whenever any portion of member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- D. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the Housing Law of the State of Michigan, being Act No. 167 of the new Public Acts of 1917, as amended, or the Building Codes of the Township.
- E. 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 other reason is likely to fall or give way.
- F. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- G. When 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 to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

H. Whenever 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 Township or County of Crawford 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.

I. Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

J. Whenever 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, Act No. 299 of the Public Acts of 1980, being Sections 339.2501 to 339.2515 of the Michigan Compiled Laws, or (if the building or structure) has not been publicly offered for sale by the owner of the building or structure during said period. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:

(i) A building or structure as to which the owner or agent does both of the following:

(a) Notifies the Beaver Creek Township Zoning Administrator that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the Beaver Creek Township Zoning Administrator by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

(b) Maintains the exterior of the building or structure and adjoining grounds in accordance with this Ordinance or the building codes governing Beaver Creek Township.

(ii) 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 Beaver Creek Township Zoning Administrator 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 Beaver Creek Township Zoning Administrator not more than 30 days after the dwelling no longer qualifies for this exemption. 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 a year.

K. The term "dangerous building" shall also include any sign, fence, shed, lean-to, cellar or other structure, which has become so rotted, broken, infirm or dilapidated so as to endanger persons or property.

SECTION III

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 IV

A. When the whole or any part of any building or structure is found to be in a dangerous condition, the Township Zoning Administrator shall issue a notice of the dangerous condition.

B. The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of the Township.

C. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person, to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.

D. 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 included in the notice.

SECTION V

A. The hearing officer shall be appointed by the Township Supervisor to serve at his or her pleasure. 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. The Zoning Administrator shall file a copy of the notice of the dangerous condition of any building with the hearing officer.

C. 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 five 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 property maintained.

D. 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 in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under Section II.J 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 or shrubs.

E. If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under subsection D, the hearing officer shall file a report of the findings and copy of the order with the Township Board not more than five days after noncompliance by the owner 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 a manner prescribed in Section IV.D. of this Ordinance.

SECTION VI

The Township Board shall fix a date not less than 30 days after the hearing prescribed in Section V.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 IV.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 Township Board shall approve, disapprove or modify the order. If the Township Board 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 Township Board 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, or agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

SECTION VII

A. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Township Board, the Township Board may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.

B. The costs 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, 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. 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 Assessor of the amount of the costs 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 by first class mail at the address shown on the records.

D. If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost, the Township shall have a lien for the costs incurred by the Township to bring the property into conformance with this ordinance, if the building or structure which was demolished, made safe or had the exterior of the building or structure or grounds adjoining the building or structure properly maintained, is a single family dwelling or a two family dwelling. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General property Tax Act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

E. 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. The Township shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection, if the judgment is entered in a case involving a single-family dwelling or a two family dwelling. The lien provided for in this subsection shall not take effect until notice of the lien is filed and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

F. A judgment in an action brought pursuant to subsection E may be enforced against assets of the owner other than the building or structure.

G. The Township shall have a lien for the amount of a judgment obtained pursuant to subsection E against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against which the judgment is obtained, if the judgment is entered in a case involving a single family dwelling or a two family dwelling. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

SECTION VIII

An owner aggrieved by any final decision or order of the Township Board, under Section VI 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.

If the Zoning Administrator believes an immediate serious danger exists to the public where a vacant building or structure is left open to casual entry, he may give notice by personal service to the owner of record as shown on the current tax roll, or by leaving such notice at his or her place of residence as shown on the current tax roll and also similarly serving any other interested persons (as shown on the tax roll) pertaining to a hearing on the matter to be held no sooner than 24 hours after effecting such service. The purpose of the hearing shall be to consider the request of the Zoning Administrator that the Township be authorized to go upon the property for the express purpose of boarding up or making the premises secure from casual entry immediately. After taking testimony from the Zoning Administrator, owner (if he or she appears) and other interested persons who may appear, the hearing officer shall consider the urgency of the matter, whether a real danger exists to persons, including minors, who might enter the building or structure, and whether there is evidence that unauthorized persons are or have entered the premises. If the hearing officer believes that such immediate dangers exist by the building or structure remaining open to casual entry, the hearing officer may authorize such work as may be necessary to be done by the Township immediately to make the premises secure. The costs of such work shall be paid by the property owner within 30 days or billing by the Township. If such costs are not paid, the Township may institute suite to collect said costs or take such other action as may be allowed by law to compel payment.

SECTION IX

In addition to any other civil penalties or remedies provided for in this ordinance, a person who fails or refuses to comply with an order approved or modified by this Township Board under Section VI of this ordinance within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500, or both, in the case of an order pertaining to any other type of structure.

SECTION X

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 XI

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION XII

This Ordinance shall take effect 30 days following adoption and publication of the same.

Motion by Little and seconded by Summers to Adopt Ordinance No. 31.

Ayes: Summers, Balmes, Little Riley and Hartman. Nays: 0.

Adopted: 4/11/2005

Published: 4/21/2005

Effective: 5/21/2005

Sharon K. Hartman, Clerk