

STATE OF MICHIGAN
COUNTY OF BERRIEN
ORONOKO CHARTER TOWNSHIP DANGEROUS
BUILDING ORDINANCE # 59

An ordinance to authorize Oronoko Charter Township to rehabilitate or demolish unsafe buildings.

CHARTER TOWNSHIP OF ORONOKO ORDAINS:

SECTION I
TITLE

This Ordinance shall be known and cited as the Oronoko Charter Township Dangerous Building Ordinance.

SECTION II
PURPOSE AND INTENT

The purpose of this ordinance is to protect the public health, safety and welfare of the people of Oronoko Charter Township, by providing a means to rehabilitate or demolish unsafe buildings within the Township, and for the orderly process thereof, and to repeal all ordinances or parts of ordinances in conflict herewith.

SECTION III
DEFINITIONS

- a. Generally, and for the purposes of this ordinance, words and terms used herein shall have the meanings ascribed to them in this Section III, unless indicated to the contrary.
- b. "Hearing Officer" As used in this ordinance, the term "officer" and/or "hearing officer", shall mean the hearing officer provided for in Section VI of this ordinance.
- c. "Dangerous Building" As used in this ordinance, the term "dangerous building" shall mean any building, dwelling, dwelling unit or structure which satisfies anyone or more of the following:
 1. Is a "dangerous building" as described and defined in Section 139 of the Housing Law, being Act 167 of the Public Acts of 1917, as amended [MSA Section 5.2891 (19); MCL Section 125.539].

2. Because of damage by fire or wind or because of its dilapidated condition, is dangerous to the life, safety or general health and welfare of the occupants and/or of the people of the Charter Township of Oronoko.
3. Has sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
4. Has parts thereof which are so attached that they may fall and injure persons or damage property.
5. Is vacant and open, at door or window, on a repeated or continual basis, leaving the interior exposed to the elements or accessible to entrance by trespassers or animals, or open to casual entry.
6. Has been damaged or vandalized or has deteriorated to such an extent as to be unfit or unsuitable for occupancy and which has not been made habitable or safe, to the standards of this article and other ordinances of the Charter Township of Oronoko, within thirty (30) days after written notice is given by the building official/inspector to the last known owner or person having the right to possession thereof.
7. Is hazardous to the safety, health or welfare of the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
8. Is in such a condition as to constitute a nuisance.
9. Is boarded up and unoccupied for a period of more than 180 consecutive days, or longer, and is not listed as being available for sale, lease or rent, except when the owner has notified the Township of its intentions to keep the building unoccupied and continuously maintains the property and grounds, or if the building is classified as a second home, vacation home, hunting cabin or is to be occupied by the owner or a member of the owner's family, part of the year.

10. The term "dangerous building" shall also include any sign, fence, shed, lean-to, cellar or other structure which has become so rotted, burned, broken, or dilapidated as to be likely to fall over or collapse, and/or which might injure persons and/or damage additional property as a result thereof.
- d. "Designated Enforcement Official", As used in this ordinance, the term "Designated Enforcement Official" shall mean that individual designated by resolution of the Oronoko Charter Township Board of Trustees, to enforce this ordinance and including the Township Building Inspector/Official/Official.
 - e. "Owner" As used in this ordinance, the term "Owner" shall mean the owner, occupant, lessee and/or any other person with an interest of record in a dangerous building as defined in this ordinance, or the property on which a dangerous building is located, or any building or property which the Charter Township of Oronoko is investigating to determine whether a violation of this ordinance exists.
 - f. "Township". As used in this ordinance, the term "Township" shall mean Oronoko Charter Township.

SECTION IV
MAINTENANCE OF DANGEROUS BUILDING PROHIBITED

- a. It shall be unlawful for any Owner(s) to keep, own, occupy or maintain any Dangerous Building within the Township.
- b. Any Dangerous Building located within the Township constitutes a public nuisance and/or a nuisance per se; in addition to any other penalty or liability provided for in this ordinance, any person who keeps, owns, occupies or maintains a Dangerous Building shall be liable for maintaining a public nuisance and/or a nuisance per se.
- c. Township representatives may, upon written permission of the titled owner of the real estate, enter upon such property for the purpose of making surveys, measurements, inspections, examinations, tests, borings, samplings, taking photographs, videotaping, conducting an environmental inspection, or for any other purpose reasonably necessary to carry out the provisions of this ordinance. If reasonable efforts to enter have been obstructed or denied, the Township may commence a civil action in circuit court for an order permitting entry, and restraining or enjoining further obstruction or denial of access. The complaint shall state the facts making the entry reasonable and necessary, the date or dates on which entry is sought, and the anticipated duration of the entry. The Court may permit entry by the Township upon such terms as justice and equity require.

SECTION V
NOTICE TO OWNERS

- a. When the whole or any part of any building is found to be in a dangerous or unsafe condition (as defined in Section III(c), the Designated Enforcement Official and/or Township Building Inspector/Official/Official shall issue a written notice of the dangerous or unsafe condition. The notice shall be served on the Owner(s) by either certified mail or personal service. A copy of said notice shall also be posted in a conspicuous place on the building.

- b. Such notice shall be directed to the Owner(s), as well as any other party with an interest in the building or the property on which the building is located.

- c. The notice shall identify the condition or conditions for which the building has been found to be dangerous or unsafe; specify that a permit or permits for the performance of work to correct such violations be obtained from the Township Building Inspector/Official/Official and the time within which the violation shall be corrected. If the Owner(s) finds that the work cannot be completed within the time specified, or for any other reason, the Owner(s) may appeal to the Hearing Officer and to show cause why the structure should not be ordered to be demolished or otherwise made safe. If the Owner(s) do not complete correction of the violation or complete demolition within the time specified by the notice, then the Designated Enforcement Official and/or Building Inspector/Official/Official shall send the Owner(s), a second notice, stating the date on which the Owner(s) shall appear before the Hearing Officer to show cause why the structure should not be ordered to be demolished or otherwise made safe. This notice shall be served on the Owner(s) in the manner prescribed in Section V(a).

- d. The Designated Enforcement Official and/or Building Inspector/Official/Official shall file a copy of the notice provided for in this section with the Hearing Officer.

SECTION VI
BOARD OF APPEALS AS HEARING OFFICER

- a. For the purpose of carrying out the provisions of this article, the Board of Appeals of Oronoko Charter Township shall serve, by appointment by the Township Board, as Hearing Officer.

- b. Those members of the Board of Appeals, sitting as Hearing Officer, shall be paid on a per diem basis for conducting hearings or a pro-rated amount for a partial day, as to be set from time to time by the Township Board.

SECTION VII
HEARING

- a. At the time and place fixed in the notice given pursuant to Section V(c), the Board of Appeals, as Hearing Officer, shall conduct the hearing referred to in such notice. Both the Township and the Owner(s) may be represented by counsel at this hearing. The Board of Appeals, as Hearing Officer, may take the testimony of the Designated Enforcement Official and/or Building Inspector/Official, the Owner(s), occupant, lessee or agent of the property owner and any interested party, as well as hearing any other evidence deemed relevant. The use of pictures, video tapes or other recording devices shall be permitted to present evidence in the hearing. The Board of Appeals, as Hearing Officer, shall render written findings of facts, which shall include but not be limited to:
1. Evidence of relevant building and building regulations or codes;
 2. The dangerous condition or state of repair of the building, dwelling or structure;
 3. The estimated cost of repair or demolition of the building, dwelling or structure;
 4. The equalized assessed value of the building, dwelling or structure;
 5. A recommendation regarding the action that should be taken with respect to the building:
 - a. On the basis of the Board of Appeals/Hearing Officer's findings, the Board of Appeals, as Hearing Officer, shall render a decision, either closing the proceedings or ordering the Dangerous Building to be demolished or otherwise made safe.
 - b. If it is determined by the Board of Appeals, as Hearing Officer, that the building, dwelling or structure is unfit for human habitation or is a Dangerous Building and should be demolished or otherwise made safe, the Hearing Officer shall so order, fixing a time in the order for the Owner(s) to comply therewith.
 - c. A copy of the findings and order of the Board of Appeals, as Hearing Officer, shall be served on the Owner(s), in the manner prescribed in Section V (a).

SECTION VIII
ACTION BY TOWNSHIP BOARD

- a. If, pursuant to Section VII, the Board of Appeals, as Hearing Officer, issues an order to demolish or otherwise make safe a Dangerous Building, and the Owner(s) neglects or refuses to comply with such order, or if the Owner(s) failed to appear at the hearing, the Board of Appeals, as Hearing Officer, shall file a report of the findings and a copy of the order with the Township and request that the Township take the necessary action to demolish or otherwise make safe the Dangerous Building.

- b. The Township Board shall fix a date for a public hearing, reviewing the findings and order of the officer and shall give notice to the Owner(s), in the manner prescribed in Section V(a), of the time and place of the hearing. At the hearing, the Owner(s) shall be given the opportunity to show cause why the Dangerous Building should not be demolished or otherwise made safe and the Township Board shall issue a decision to either approve, disapprove or modify the order of the Board of Appeals, as Hearing Officer.

SECTION IX
APPEAL FROM DECISION OR ORDER OF TOWNSHIP BOARD

Any Owner(s) aggrieved by a final decision or order of the Township Board under Section VIII may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty one (21) days from the date of the Township decision.

SECTION X
PLACARDING AND VACATING: ABATEMENT OF RENT

- a. If an order to demolish a Dangerous Building is affirmed by the Township Board and no appeal is taken within the time prescribed by Section IX, or if an appeal is taken and the order is affirmed by the court, and the Owner(s) fail to comply with the order, the Designated Enforcement Official and/or Building Inspector/Official shall post, in a conspicuous place or places on the Dangerous Building, a placard bearing the following words: "CONDEMNED AS UNFIT FOR HUMAN OCCUPANCY." No person shall deface or remove such placard, except the Designated Enforcement Official and/or Building Inspector/Official, as provided for in this section.

- b. A Dangerous Building which has been placarded under this section shall be vacated within a reasonable time, as required by the Designated Enforcement Official and/or Building Inspector/Official. No owner or operator shall let to any person for human occupancy and no person shall occupy nor permit anyone to occupy any such Dangerous Building which has been placarded by the building official, after the date on which the Designated Enforcement Official and/or Building Inspector/Official has required such building to be vacated, until written approval is secured from, and such placard is removed by, the Designated Enforcement Official and/or Building Inspector/Official. The Designated Enforcement Official and/or Building Inspector/Official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action was based, have been eliminated.

- c. If pursuant to the provisions of this section, a Dangerous Building has been ordered vacated by the Designated Enforcement Official and/or Building Inspector/Official and there is no compliance with the order in the time specified, the Designated Enforcement Official and/or Building Inspector/Official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate and/or demolish the Dangerous Building forthwith.

- d. If any Dangerous Building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

SECTION XI
DEMOLITION OR REPAIR BY TOWNSHIP

- a. If no appeal is filed within the time prescribed by Section IX, or if a final order to demolish a Dangerous Building or make it safe is affirmed by the court, and such order is not fully obeyed, the Township may demolish such Dangerous Building or take whatever steps necessary to make it safe. The cost of such work shall constitute both a personal liability of the Owner(s) and be a lien against the real property on which the Dangerous Building is located and shall be reported to the assessing officer of the Township who shall assess the costs against the property on which the Dangerous Building is or was located.

- b. The Owner(s) shall be notified of the amount of the cost referred to in subsection XI(a) by first-class mail at the address shown on the record.

- c. If the amount in subsection XI(a) is not paid within thirty (30) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township; and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

- d. As an additional method of recovering the amount referred to in subsection XI(a) above, the amount may be recovered by lawsuit against the owner(s).
- e. Interest shall accrue as provided for taxes and judgments by law.

SECTION XII
FEES FOR ACTIONS

- a. The Township Board may, by resolution, establish the reasonable costs and/or fees for covering the costs of successful actions taken with regard to this ordinance.
- b. All costs and fees incurred in successful enforcement of this ordinance may be assessed against the Owner(s) and be collected either personally from the Owner(s) or shall be a lien against the real property and shall be reported to the assessing officer of the Township who shall assess the same against the property on which the building or dwelling is or was located.
- c. The Owner(s) or any party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs and fees referred to in subsection (b) by first class mail at the address shown on the record. If such person(s) fail to pay the same within thirty (30) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township, and the same shall be collected in the same manner in all respects as provided by law for collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgments by law.

SECTION XIII
BOARDING UP OF BUILDINGS ON NOTICE
BY BUILDING OFFICIAL

Whenever a building is a Dangerous Building under Section III(c)(5) for a period of five (5) consecutive days after notice of said condition has been issued in accordance with Section V, a Township designee may board up the building or take such other action as may be feasible and necessary and as directed by the Township Board to protect the health, safety and welfare of the residents of the Township. The costs and their recovery shall be governed by Section XII, except that the cost to be recovered for boarding up the building shall be the actual amount expended for the particular work done.

SECTION XIV
REPEAL; SAVINGS CLAUSE; SEVERABILITY

1. All other ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed. Each section of this ordinance and each subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this ordinance.

SECTION XV
EFFECTIVE DATE

This ordinance shall take effect and be in force upon publication after adoption.

First introduced and read prior to enactment by Township Board Clerk Schinkel on February 13, 2001.
Moted for adoption by Township Board Clerk Schinkel on March 13, 2001.
Supported by Township Board Trustee Ladd.

Roll Call Vote:

Ayes: Ladd, Schinkel, Hildebrand, Calderwood, Shunkwiler, Kesterke Nays: None

Abstain: None

Absent: Kerlikowske

Ordinance Enacted: Yes

The foregoing Ordinance was enacted by the Charter Township of Oronoko, State of Michigan, on the 13 day of March, 2001, and entered by its Supervisor and Clerk on said date.

CHARTER TOWNSHIP OF ORONOKO:

Ernest Hildebrand
Township Supervisor

Richard Schinkel
Township Clerk

ORDINANCE NO. 59 WAS FIRST PUBLISHED IN THE JOURNAL ERA, ON THE 21 DAY OF FEBRUARY, 2001, AFTER FIRST BEING INTRODUCED. SAID ORDINANCE WAS THEREAFTER PUBLISHED IN THE JOURNAL ERA, AFTER ENACTMENT, ON THE 21 DAY OF MARCH, 2001. EFFECTIVE IMMEDIATELY UPON SAID LATTER PUBLICATION.

Richard Schinkel
Township Clerk

A true copy of the Ordinance may be obtained for purchase at reasonable cost, or upon inspection, at the Oronoko Charter Township Hall, located at 583 East Snow Road, Berrien Springs, Michigan, during normal business hours of 8:30 a. m. to 5:00 p.m., Monday through Friday.