

WINDSOR CHARTER TOWNSHIP
EATON COUNTY, MICHIGAN

ORDINANCE NO. 36

AN ORDINANCE TO PROHIBIT DANGEROUS BUILDINGS AS DEFINED HEREIN; TO ESTABLISH A PROCEDURE FOR THE CONDUCT OF HEARINGS TO RECEIVE EVIDENCE AND MAKE FACTUAL DETERMINATIONS CONCERNING REPORTED DANGEROUS BUILDINGS AND STRUCTURES; TO PROVIDE OPTIONS FOR REMEDIATION OF DANGEROUS BUILDINGS AND STRUCTURES; TO PROVIDE FOR JUDICIAL REVIEW; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

Windsor Charter Township, Eaton County, Michigan, ordains:

Section 1. Title.

This Ordinance shall be known as the Windsor Charter Township Dangerous Building Ordinance.

Section 2. Dangerous Building Prohibited.

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

Section 3. Definitions.

Dangerous Building Defined. As used in this Ordinance, "dangerous building" means a building or structure that has one or more of the following defects, or is in one or more of the following conditions:

A. A door, aisle, passageway, stairway or other means of exit which does not conform to the applicable Fire Code;

B. A portion of the building or structure which is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of the Building Code applicable to Windsor Charter Township;

C. A part of the building or structure is likely to fall or become detached or dislodged or collapse and injure persons or damage property;

D. A portion of the building or structure has settled to the extent that the walls or other structural portions of the building or structure have materially less resistance to wind than is required and, in the case of new construction, as required by the Building code applicable to the Township;

E. The building or structure or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, removal or movement of some portion of the ground necessary for support or for other reason is likely to partially or completely collapse or whenever some portion of the foundation or underpinning of the building or structure is likely to fall or give way;

F. Whenever the building structure or part of the building is manifestly unsafe for the purpose for which it is designed and authorized for use;

G. Whenever the building or structure is damaged by fire, wind or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or unlawful or immoral act;

H. 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 for other reason is unsanitary or unfit for human habitation or is in a condition that said structure is likely to cause sickness or disease or is likely to injure the health, safety or general welfare of persons living within the dwelling;

I. A building or structure which 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;

J. A building or structure which remains unoccupied for a period of one hundred eighty (180) consecutive days or longer and is not listed as being available for sale, lease or rent with a real estate broker licensed pursuant to the laws of the State of Michigan. For purposes of this subsection, "building or structure" includes, but is not limited to, a commercial building or structure. This subsection does not apply to either of the following:

i. A building or structure if the owner or agent does both of the following:

a. Notifies a local law enforcement agency having jurisdiction within Windsor Charter Township that the building or structure will remain unoccupied for a period of one hundred eighty (180) consecutive days. Notice shall be given to the local law enforcement agency by the owner or agent not more

than thirty (30) days after the building or structure becomes unoccupied;

- b. Maintains the exterior of the building or structure and adjoining grounds in accordance with the Building Code applicable within Windsor Charter Township.

Section 4. Notice.

A. Notwithstanding any of the provisions of this Ordinance, when the whole or any part of the building or structure is found to be in a dangerous or unsafe condition, the Township or its designated enforcing agency shall issue a notice of such dangerous and unsafe condition.

B. The notice required in this Ordinance shall be served upon the owner or agent or party in interest in the building or structure whose name appears on the last Township assessment records.

C. The notice shall specify the time and place of a hearing to determine whether the building or structure is a dangerous building. The person to whom the notice is directed shall have an 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 hearing officer shall be appointed by the Township Supervisor to serve at the Supervisor's pleasure, and a copy of the notice of dangerous building shall be filed with the hearing officer. 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 person with similar knowledge or experience. An employee of the Township shall not be appointed as a hearing officer.

E. The notice required under this section shall be in writing and shall be served upon the person to whom the notice is directed, either personally or by first class mail or certified mail, and a copy of the notice shall also be posted at a conspicuous location on the building or structure involved. The notice shall be served upon the owner or party in interest at least ten (10) days prior to the hearing date specified in said notice.

Section 5. Hearing Procedure.

A. At the hearing described in the previous section, the hearing officer shall take testimony of the enforcing agency, the owner of the property and any interested party. The hearing officer may also receive documentary and photographic evidence deemed relevant.

B. The hearing officer shall render a decision within five (5) days after completion of the hearing, which decision shall either dismiss the matter or order the building or structure to be demolished or otherwise made safe or properly maintained.

C. If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, the hearing officer shall so order and establish a time in the order for the owner or the owner's agent to comply with said order. If the owner or agent fails to appear or neglects or refuses to comply with the order the hearing officer shall file a report with the Township Board and request that the necessary action be taken to demolish or otherwise make the building or structure safe. A copy of the findings and order of the hearing officer shall be served upon the owner by first class mail.

D. The Township Board shall set a date (not less than thirty (30) days after the hearing conducted by the hearing officer) for a hearing on the findings of the hearing officer and the order of the hearing officer. The Township Board shall give notice of its hearing to the owner in the manner prescribed above. At the hearing before the Township Board, the owner or owner's agent shall be given an opportunity to show cause why the order should not be enforced. The Township Board shall either, approve, disapprove or modify said order. If the Township Board approves or modifies the order, said Board shall take all action necessary to enforce the order. If the order is approved or modified, the owner shall comply with the order within sixty (60) days after the completion of the hearing under this subsection. For an order of demolition, if the Township Board determines that the building or structure has been substantially destroyed by wind, fire, flood, deterioration, neglect, abandonment, vandalism or other cause 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 shall comply with the order of demolition within twenty-one (21) days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure involved, a rebuttable presumption that the building or structure requires immediate demolition shall be deemed to exist.

E. The cost of demolition shall include, but not be limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notice and liens filed with the County Register of Deeds (if any), demolition and dumping charges, court reporter attendance fees, and the cost of collection of the charges authorized hereunder. The cost of 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 on the last property tax rolls of the Township.

F. The owner or party in interest of the property which is the subject of the action authorized by this Ordinance shall be notified by the Township of the cost of demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining said building or structure by first class mail at the address shown on the last

property tax roll. If the owner or party in interest fails to pay the cost of required action within thirty (30) days of mailing of said notice, the Township shall have a lien for the cost incurred by the Township to bring the property into conformance with this Ordinance. The lien shall not take effect until notice of the lien has been filed or recorded with the Register of Deeds as provided by law. The lien for costs incurred hereunder shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, MCL 211.1 to 211.157.

G. In addition to other remedies provided by law, the Township may bring an action against the owner of the building or structure for the full cost of demolition, of making the building safe, or 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 under this section. The lien provided in this subsection shall not take effect until the notice of lien is recorded with the Register of Deeds or is otherwise directed by a court having jurisdiction.

Section 6. Appeals.

Any owner or party in interest aggrieved by the final decision or order of the Township Board under this section may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control or other remedy within twenty (20) days from the date of said decision.

Section 7. Severability. It is the legislative intent of the Township Board adopting this Ordinance that all provisions herein shall be liberally construed to protect the public health, safety and general welfare of the inhabitants of the Township and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance, it being the intent of the Township Board that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

Section 8. Effective Date. This amendment shall become effective immediately upon its publication as required by law.

Adopted this 7th day of November, 2011.