

**Windsor Charter Township
Eaton County, Michigan
Dangerous Buildings Ordinance
Second Reading**

Ordinance No.39

At a meeting of the Township Board of Windsor Charter Township, Eaton County, Michigan, held at the Windsor Charter Township Hall on March 25, 2014, at 7:30 p.m., Township Board Member Marcie Dailey moved to introduce the following Ordinance for posting, publication and subsequent final adoption, which motion was seconded by Township Board Member Mary Jane Kandler:

An Ordinance to promote the health, safety, and welfare of the people of Windsor Charter Township, Eaton County, Michigan, by regulating the maintenance and safety of certain buildings and structures; defining the classes of buildings and structures regulated by this Ordinance; describing and establishing procedures for the maintenance or demolition of certain buildings and structures; establishing remedies, providing for enforcement, and fixing penalties for the violation of this Ordinance; and repealing all ordinances or parts of ordinances in conflict with this Ordinance.

THE CHARTER TOWNSHIP OF WINDSOR, EATON COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known and cited as the Windsor Charter Township Dangerous Buildings Ordinance.

SECTION 2: DEFINITION OF TERMS. As used in this Ordinance, including in this section, the following words and terms shall have the meanings stated herein:

1. “*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:
 - A. A portion of the building or structure is damaged by fire, wind, flood, water or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage occurred 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 applicable Building Code for that building or structure, purpose, or location.
 - B. The building or structure 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 unlawful or immoral act.

- C. The building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, damage, or faulty construction is unsanitary, unsafe or unfit for human habitation, is in a condition that the Township Ordinance Enforcement Officer or County Public Health Officer determines is likely to cause sickness or disease, or is likely to harm the health, safety, or general welfare of the people living in the dwelling, including a building or structure with residual toxicity created by the production or use of illegal drugs.
 - D. The building or structure is Vacant, dilapidated, and the building is open and exposed to the elements or accessible to trespassers.
 - E. The building or structure is Vacant and has one of the following conditions:
 - (i) A part of the building or structure is likely to fall, become detached or dislodged, or collapse, or has already done so, and is in a condition that can injure persons or damage property.
 - (ii) 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, which creates an unsafe condition for the purpose for which it is used or intended to be used or is likely to harm the health, safety or general welfare of people.
2. “*Enforcing agency*” means the Windsor Charter Township, the Windsor Charter Township Ordinance Enforcement Officer and/or such other official(s) or agency as may be designated by the Windsor Charter Township Board to enforce this Ordinance.
 3. “*Applicable Building Code*” means the building code administered and enforced in Windsor Charter Township pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, MCL 125.1501, *et. seq.*, or adopted pursuant to any other state law.
 4. “*Party in interest*” means a person or entity, including an agent of the owner or lessee of the property, whose interest in the Dangerous Building will be affected by application of this Ordinance to a building or structure.
 5. “*Vacant*” means a building or structure that has no authorized human occupants.

SECTION 3: PROHIBITION OF DANGEROUS BUILDINGS. It is unlawful for any owner, or the owner’s agent, of a building or structure to own or maintain any building or structure or part thereof which is a Dangerous Building as defined in this Ordinance.

SECTION 4: NOTICE OF DANGEROUS BUILDING; HEARING.

1. Notice Requirements. Notwithstanding any other provision of this Ordinance, if a building or structure is found to be a Dangerous Building, the Enforcing Agency may issue a notice that the building or structure is a Dangerous Building.
2. Issuance of Notice. A notice that the building or structure is a Dangerous Building may not be issued by the Enforcing Agency without approval of the Windsor Charter Township Board.
3. Parties Entitled to Notice. The notice shall be served on each owner of, or party in interest to, the building or structure as determined by the name(s) listed for the property on the last local tax assessment records of Windsor Charter Township. A copy of the notice may also be provided to an agent of the owner and to any persons residing in the building or structure.
4. Contents of Notice. The notice shall specify the time and place of a hearing on whether the building or structure is a Dangerous Building and 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, or otherwise made safe, or properly maintained.
5. 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, agent or lessee 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.

1. Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Windsor Charter Township Board. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, attorney, 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.
2. Filing Dangerous Building Notice with Hearing Officer. The Enforcing Agency shall file a copy of the notice of the dangerous condition of any building or structure with the Hearing Officer.
3. 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.

4. 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 in the order no less than 45 days for the owner, agent, or lessee to comply with 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(5) of this Ordinance and filed with the Windsor Charter Township Board.
5. Noncompliance with Hearing Officer Order; Request to Enforce Order. If the owner, agent, or lessee fails to appear at the hearing, appears at the hearing and within 5 days of the hearing decision requests in writing his/her wish to appeal the hearing officer's order, or refuses to comply with the order within the timeframe issued by the Hearing Officer under this Ordinance, the Hearing Officer shall file a request with the Windsor Charter Township Board not more than 5 days after noncompliance by the owner requesting that necessary action be taken to enforce the order. A copy of the request shall be served on the owner, agent, or lessee in the manner prescribed in Section 4(5) of this Ordinance.

SECTION 6: ENFORCEMENT HEARING BEFORE THE WINDSOR CHARTER TOWNSHIP BOARD. The Windsor Charter Township Board shall fix a date within 30 days after the hearing prescribed in Section 5(3) or after receipt of the written appeal on the hearing officer's order and report prescribed in Section 5(5) of this Ordinance for a hearing on the findings and order of the Hearing Officer. Notice shall be given to the owner, agent, or lessee in the manner prescribed in Section 4(5) 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 Windsor Charter Township Board shall approve, disapprove, or modify the order. If the Windsor Charter Township Board approves or modifies the order, the 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 the time specified by the Township Board.

SECTION 7: IMPLEMENTATION AND ENFORCEMENT OF REMEDIES.

1. Implementation of Order by Township. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Windsor Charter Township Board, the Board may, in its discretion, contract for the demolition of the building or structure, making safe the building or structure, or maintaining the exterior of the building or structure or grounds adjoining the building or structure.
2. Reimbursement of Costs. The costs of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by Windsor Charter Township to bring the property into compliance with this Ordinance shall be reimbursed to Windsor Charter Township by the owner or party in interest in whose name the property appears on the last local tax assessment records.

3. Notice of Costs. The owner or party in interest in whose name the property appears on the last local tax assessment records shall be notified by the Enforcing Agency of the amount of the costs of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, by certified mail, return receipt requested.
4. Lien for Unpaid Costs. If the owner or party in interest fails to pay the costs within 30 days after mailing by the Enforcing Agency of the notice of the amount of the cost, in the case of a single-family dwelling or a two-family dwelling, Windsor Charter Township shall have a lien for the costs incurred by Windsor Charter 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 as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. 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, Public Act 206 of 1893, as amended, MCL 211.1, *et. seq.*
5. Court Judgment for Unpaid Costs. In addition to other remedies under this Ordinance, Windsor Charter Township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure.
6. Enforcement of Judgment. A judgment in an action brought pursuant to Section 7(5) of this Ordinance may be enforced against any assets of the owner including, but not limited to, the building or structure and the land on which it is located or other real or personal property of the owner.
7. Lien for Judgment Amount. In the case of a single-family dwelling or a two-family dwelling, Windsor Charter Township shall have a lien for the amount of a judgment obtained pursuant to Section 7(5) of this Ordinance against the owner's interest in all real property located in the State of Michigan that is owned in whole or in part by the owner of the building or structure against which the judgment is obtained. 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 8: CIVIL INFRACTION AND REMEDIES FOR NONCONFORMANCE WITH ORDER. Any person or other entity who fails or refuses to comply with an order approved or modified by the Windsor Charter Township Board under Section 6 within the time prescribed by that section is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which Windsor Charter Township has incurred in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions,

remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

SECTION 9: APPEAL OF TOWNSHIP BOARD DECISION. An owner aggrieved by any final decision or order of the Windsor Charter Township Board under Section 6 of this Ordinance may appeal the decision or order to the circuit court within 20 days from the date of the decision or order of the Windsor Charter Township Board.

SECTION 10: 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 11: REPEAL. Dangerous Buildings Ordinance #36 and all other 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 applicable Building Code (or maintenance, electric, plumbing, or similar code) or Zoning Ordinance.

SECTION 12: EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board