

PORT AUSTIN TOWNSHIP

ORDINANCE NO. 124

DANGEROUS BUILDING ORDINANCE

An Ordinance to promote the health, safety and welfare of the Township of Port Austin, by regulating the maintenance, alteration, health, safety and improvement of dwellings; to define the classes of dwellings effected by the Ordinance, to establish administrative requirements; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this Ordinance.

THE TOWNSHIP OF PORT AUSTIN ORDAINS:

Unlawful Conduct.

(1) It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in subsection (2).

“Dangerous Buildings” Defined.

(2) “Dangerous Building” means a building or structure that has 1 or more of the following defects or is in 1 or more of the following conditions:

(A) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the township.

(B) A part 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 the building or structure does not meet the minimum requirements of this Ordinance or the building code of the township.

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

(D) A part 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 winds than is required in the case of new construction by this Ordinance or the building code of the township.

(E) 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 purpose of support, or for other reason, is likely to collapse partially or completely, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

(F) The building or structure or any portion of the building or structure is manifestly unsafe for the purpose for which it is used.

(G) The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and may become an attractive nuisance to children who might play in the building or structure to their danger, may become a harbor for vagrants, criminals, or immoral persons, or may enable persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.

(H) A dwelling, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition determined by the health officer to be likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(I) A building or structure is vacant, dilapidated, and open, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(J) 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. This subdivision does not apply to either of the following:

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

(a) Notifies a local law enforcement agency in the township that the dwelling will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the dwelling becomes unoccupied.

(b) Maintains the exterior of the dwelling and adjoining grounds in accordance with this ordinance or the building code of the 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 a local law enforcement agency in the township 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 law enforcement agency 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 a year.

Notice

(3) (A) Notwithstanding any other provision of this act, 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.

Persons who may be served notice.

(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.

Contents, notice of hearing.

(C) The notice shall specify the time and place of 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.

Hearing officer; filing of notice with officer.

(D) 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 hearing officer. The enforcing agency shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

Notice in writing; service.

(E) 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 on 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.

Hearing; Testimony; Decision.

(4) (A) At a hearing prescribed by subsection (3), the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not less 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.

(B) 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 subsection (2)(J), 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.

(C) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (4)(B), the hearing officer shall file a report of the findings and a copy of the order with the legislative body of the township 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 the manner prescribed in subsection (3).

(D) The legislative body of the township shall fix a date not less than 30 days after the hearing prescribed in subsection (3) 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 subsection (3) 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 legislative body of the township shall either approve, disapprove, or modify the order. If the legislative body approves or modifies the order, the legislative body 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 subsection. In the case of an order of demolition, if the legislative body of the township 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 subsection.

(E) The 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 incurred by the township to bring the property into conformance with this act shall be reimbursed to the township by the owner or party in interest in whose name the property appears.

(F) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of 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 by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost 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 cost incurred by the township to bring the property into conformance with this act. 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 cost 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.

(G) In addition to other remedies under this act, 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. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Judgment: enforcement against assets of owner.

5. (A) A judgment in an action brought pursuant to subsection (4) (G) may be enforced against assets of the owner other than the building or structure.

(B) The township shall have a lien for the amount of a judgment obtained pursuant to Section (4) (G) 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 whom the judgment is obtained. A lien provided for in this section does not have priority over prior filed or recorded liens and encumbrances.

Noncompliance with order: Misdemeanor.

(6) A person who fails or refuses to comply with an order approved or modified by the legislative body of the township 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 \$500.00, or both.

Effective Date.

This Ordinance shall take effect on March 15, 1999. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted at the Port Austin Township board meeting on March 15, 1999, by the following vote: Ayes: Goretski, Gray, Babcock, Hirschberger, Stockoski
Nayes: None

I HEREBY CERTIFY that the foregoing is a true and complete copy of an ordinance adopted by the Port Austin Township Board at their regular meeting held on March 15, 1999.

Dated: March 15, 1999

Cheryl Gray
CHERYL GRAY, Township Clerk

Adopted: March 15, 1999

Effective: March 15, 1999