

ORDINANCE NO. 03-004

**DANGEROUS BUILDINGS ORDINANCE**

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF JAMESTOWN CHARTER TOWNSHIP, OTTAWA COUNTY, MICHIGAN BY REGULATING THE MAINTENANCE AND SAFETY OF CERTAIN BUILDINGS AND STRUCTURES; TO DEFINE THE CLASSES OF BUILDINGS AND STRUCTURES AFFECTED BY THE ORDINANCE; TO ESTABLISH ADMINISTRATIVE REQUIREMENTS AND PRESCRIBE PROCEDURES FOR THE MAINTENANCE OR DEMOLITION OF CERTAIN BUILDINGS AND STRUCTURES; TO ESTABLISH REMEDIES, PROVIDE FOR ENFORCEMENT, AND FIX PENALTIES FOR THE VIOLATIONS OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE CHARTER TOWNSHIP OF JAMESTOWN, OTTAWA COUNTY, MICHIGAN ORDAINS:

Section 1. **TITLE.**

This Ordinance shall be known and cited as the Jamestown Charter Township Dangerous Buildings Ordinance.

Section 2. **DEFINITIONS AND TERMS.**

As used in this Ordinance, the following words and terms shall have the following meanings:

- A. "Building Code" means the building code administered and enforced in the Township pursuant to the State Construction Code Commission Act, Act No. 230 of the Public Acts of 1972, as amended, being Sections 125.1501 et seq. of the Michigan Compiled Laws.
- B. "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.
  - 1. A door, aisle, passageway, stairway or other means of exit does not conform to the Building Code or Township Fire Code as may be, from time to time in force or in effect for the Township.

2. A portion 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 does not meet the minimum requirements of the Housing Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Sections 125.401 et seq. of the Michigan Compiled Laws (the "Housing Act"), or the Building Code for a new building or structure, purpose or location.
3. A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.
4. A portion 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 wind than is required in the case of new construction by the Housing Act or the Building Code.
5. 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, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
6. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used.
7. The building or structure is damaged by fire, wind or flood, or 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 an unlawful or immoral act.
8. 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 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.

9. A building or structure 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.
  10. 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 licenses under Article 25 of the Occupational Code, Act No. 299 of the Public Acts of 1980, being Section 339.2501 et seq. Of the Michigan Compiles Laws, or is not publically offered for sale by the owner. This subsection does not apply to either of the following.
    - a. A building or structure as to which the owner or agent does both of the following:
      - i. Notifies the County Sheriff's Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
      - ii. Maintains the exterior of the building or structure and adjoining grounds in accordance with this Ordinance, the Housing Act or the Township Building Code.
    - b. 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 County Sheriff's Department 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 subsection shall notify the County Sheriff's Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, "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.
- C. Enforcing agency" means this Township, through the Township Building Official and/or such other official(s) or agency as may be designated by the Township Board to enforce this Ordinance.

**Section 3. PROHIBITION OF DANGEROUS BUILDINGS.**

It shall be unlawful for any owner or any owner's agent to keep or maintain any building or any part of a building which is a dangerous building as defined in this Ordinance.

**Section 4. NOTICE OF DANGEROUS BUILDING; HEARING.**

- A. Notice Requirement. Notwithstanding any other provision of this Ordinance, 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.
- B. Parties Entitled to Notice. 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. 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, otherwise made safe, or properly maintained.
- D. 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 or party in interest at the address shown on 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 5. DANGEROUS BUILDING HEARING OFFICER; DUTIES; HEARING; ORDER.**

- A. Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Township Supervisor to serve at the Township Supervisor's pleasure. The Hearing Officer shall be a person who has expertise in housing matters. By way of example and not by way of exclusion, the Hearing Officer may be 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. 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.
- C. Hearing Testimony and Decision. At a hearing prescribed by this Ordinance, the Hearing Officer shall take testimony of and receive other evidence from 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 properly maintained.
- D. 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 for the owner, agent or lessee to comply with the order. If the building or structure is a dangerous building under this Ordinance, the order may require the owner or agent to maintain the exterior of the building or structure and adjoining grounds owned by the owner of the building or structure including, but not limited to, the maintenance of lawns, trees and shrubs.
- E. Noncompliance with Hearing Officer Order/Request to Enforce Order. If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under this Section, the Hearing Officer shall file a report of the findings and a 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 the manner prescribed in this Ordinance.

**Section 6. ENFORCEMENT HEARING BEFORE THE TOWNSHIP BOARD.**

The Township Board shall fix a date not less than 30 days after the hearing prescribed in Section 5 of this Ordinance for a hearing on the findings and order the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section 4.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 either 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, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this Section.

**Section 7. IMPLEMENTATION AND ENFORCEMENT REMEDIES.**

- A. **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 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. **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 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. **Notice of Costs.** 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, making the building or structure 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 Township records.
- D. **Lien for Unpaid Costs.** If the owner or party in interest fails to pay the costs within 30 days after mailing by the Township Assessor of the notice of the amount of the cost, in the case of a single family dwelling or a two family dwelling, the Township shall have a lien for the costs 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 as provided by law. A lien provided for in this Section 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, Act No. 206 of the Public Acts of 1893, as amended, being Sections 211.1 et seq. of the Michigan Compiled Laws.
- E. **Court Judgment for Unpaid Costs.** 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 or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. In the case of a single family

dwelling or a two family dwelling, 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 and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

- F. Enforcement of Judgment. A judgment in an action brought pursuant to this Section may be enforced against assets of the owner other than the building or structure.
- G. Lien for Judgment Amount. In the case of a single family dwelling or a two family dwelling, the Township shall have a lien for the amount of a judgment obtained pursuant to this Section 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. 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. PENALTY/REMEDIES FOR NON-CONFORMANCE WITH ORDER.**

A person who fails or refuses to comply with an order approved or modified by the Township Board under this Ordinance within the prescribed time is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days and/or a fine or not more than \$500.00, with each day that such violation(s) continue being a separate violation. Such penalties are cumulative and in addition to the right of the Township to such other judicial remedies, including without limitation, injunctive relief for the abatement of the violation(s) in a court of competent jurisdiction.

**Section 9. APPEAL OF TOWNSHIP BOARD DECISION.**

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

**Section 10. SEVERABILITY.**

The provisions of this Ordinance are declared to be severable. If any clause, sentence, word, section or provision of this Ordinance is declared void or unenforceable for any reason by any court of competent jurisdiction, that shall not affect the remainder of this Ordinance which shall continue in full force and effect.

Section 11. **ADMINISTRATIVE LIABILITY.**

No Township officer, agent, employee or member of the Township Board shall be personally liable for any damage which may occur to any person or entity as a result of any act or decision performed in the discharge of duties and responsibilities pursuant to this Ordinance.

Section 12. **REPEAL.**

All ordinances or parts of ordinances in conflict with this Ordinance, including without limitation, Ordinance No. 103, are hereby repealed. However, this Ordinance shall not be construed to repeal expressly or by implication any provision of the Township Building Code

Section 13. **EFFECTIVE DATE.**

This Ordinance was approved and adopted by the Township Board of the Charter Township of Jamestown, Ottawa County, Michigan, on June 23, 2003, and it is ordered to take effect 30 days after publication in the ADVANCE NEWSPAPER, a newspaper having general circulation in the Township, pursuant to the provisions of Act No. 191 of the Public Acts of 1939, as amended.



James Miedema  
Township Supervisor



Ruth Pruis  
Township Clerk



CERTIFICATE

I, the Clerk for the Charter Township of Jamestown, Ottawa County, Michigan, do hereby certify that the foregoing Jamestown Charter Township Dangerous Buildings Ordinance was adopted at a regular meeting of the Township Board held on June 23, 2003. The following members of the Township Board were present at that meeting: Brouwer, Nyenhuis, Rau, Pruis and Shaarda. The following members of the Township Board were absent: Sipe and Miedema. The Ordinance was adopted by the Township Board with members of the Board Brouwer, Nyenhuis, Pruis, Rau and Shaarda voting in favor and members of the Board -0- voting in opposition. Notice of Adoption of the Ordinance was published in the ADVANCE NEWSPAPER on July 1, 2003. An attested copy of the Ordinance was sent to the Ottawa County Clerk by first class mail, postage prepaid, on July, 2003 (i.e. within one week of the publication date).

  
\_\_\_\_\_  
Ruth Pruis  
Jamestown Charter Township Clerk