

TOWNSHIP OF NAPOLEON

DILAPIDATED AND DANGEROUS BUILDINGS ORDINANCE

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF THE TOWNSHIP OF NAPOLEON BY REGULATING THE MAINTENANCE, ALTERNATION, HEALTH, SAFETY, AND IMPROVEMENT OF DWELLINGS; TO DEFINE THE CLASSES OF DWELLINGS AFFECTED BY THE ORDINANCE AND TO ESTABLISH ADMINISTRATIVE REQUIREMENTS; TO PRESCRIBE PROCEDURES FOR THE MAINTENANCE, IMPROVEMENT, OR DEMOLITION OF CERTAIN COMMERCIAL BUILDINGS; TO ESTABLISH REMEDIES; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR THE DEMOLITION OF CERTAIN DWELLINGS; AND TO FIX PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

ORDINANCE NO. 73

At a regular meeting of the Township Board held on the 13th day of December, 2005, at 7:00 P.M., the following Ordinance was heard and passed:

THE TOWNSHIP OF NAPOLEON HEREBY ORDAINS:

Section 1. DEFINITIONS.

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 does not conform to the State Fire Code as adopted by the Township.
- B. 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 this Ordinance or building codes 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 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 this Ordinance or of the building codes 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 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 away.
- F. The building or structure, or a part 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 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.
- 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 otherwise, is unsanitary or unfit for human habitation, is in a condition that the Building Inspector 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.
- I. 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.
- J. A building or structure 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 under Article 25 of the Occupational Code, Act No. 299 of the Public Acts of 1980, being Sections 338.2501 to 339.2515 of the Michigan Compiled Laws. 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:

- 1. A building or structure as to which the owner or agent does both of the following:
 - a. Notifies a local law enforcement agency or the Township Building Inspector in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period

one hundred eighty (180) consecutive days. The notice shall be given to the local law enforcement agency or the Township Building Inspector 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 this Ordinance or building codes of the Township.
2. A secondary dwelling of the owner that is regularly unoccupied for a period of one hundred eighty (180) days or longer each year, if the owner notifies a local law enforcement agency or the Township Building Inspector in whose jurisdiction the dwelling is located that the dwelling will remain unoccupied for a period of one hundred eighty (180) consecutive days or more each year. An owner who has given the notice prescribed by this subsection shall notify the law enforcement agency or the Township Building Inspector not more than thirty (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.

Section 2. NOTICE.

Notwithstanding any other provision of this Ordinance, if a building or structure is found to be a dangerous building, the Building Inspector shall issue a notice that the building or structure is a dangerous building. The notice shall be served on the owner, agent, or lessee that is registered with the Township. If an owner, agent, or lessee is not registered with the Township, 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 rolls.

2.1. The notice shall specify the name and place of a 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.

2.2. The Hearing Officer shall be appointed by the Township Supervisor, with the consent of the Township Board, 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.

2.3. 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 ten (10) days before the date of the hearing included in the notice.

Section 3. HEARING, ORDER, AND ENFORCEMENT.

At a hearing prescribed in this Ordinance, the hearing officer shall take testimony of the Building Inspector, the owner of the property, and any interested parties. Not more than five (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.

3.1. 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 Section 1 hereof, 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.

3.2. If the owner, agent, or lessee fails to appear, or neglects to comply with the Order issued under Section 3.1, the Hearing Officer shall file a report of the findings and a copy of the Order with the Township Board not more than five (5) 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.

3.3. The Township Board shall fix a date not less than thirty (30) days after the hearing prescribed above 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 above 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 of the Township shall either approve, disapprove, or modify the Order. If the Township Board approves or modifies the Order, the legislative body will take all necessary action to enforce the Order. If the Order is approved or modified, the owner, agent, or lessee will comply with the Order within sixty (60) days after the date of the hearing under this subsection. 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 twenty-one (21) days after the date of the hearing under this subsection.

3.4. The cost of the demolition, of making the 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 will be reimbursed to the Township by the owner or party in interest in whose name the property appears.

3.5. The owner or party in interest in whose name the property appears upon the last 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 thirty (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 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 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.

3.6. 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 costs of 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.

Section 4. BOARD OF APPEALS.

The Township Board shall hear appeals under this Ordinance.

4.1. A majority of the Township Board constitutes a quorum. Final action of the Township Board shall be only by affirmative vote of a majority of the Board members appointed and serving.

4.2. A meeting of the Township Board will be held pursuant to the Open Meetings Act, Act 267 of the Public Acts of 1976. Public notice of the time, date, and place of meeting shall be given as required by law.

4.3. A writing prepared, owned, used, and in the possession of, or retained by the Township Board in performance of its official function, shall be made available to the public pursuant to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976.

4.4. An owner aggrieved by any final decision of the Township Board may appeal the decision to the Circuit Court by filing a Petition for an Order of Superintending Control within twenty (20) days from the date of the decision.

Section 5. PENALTY.

A person who fails or refuses to comply with an Order of the Board of Appeals issued under this Ordinance within the time prescribed by such Order is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than Five Hundred Dollars (\$500), plus costs, which may include all direct or indirect expenses to which the Township has been put 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 shall constitute a separate violation.

Section 6. SEVERABILITY.

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 7. EFFECTIVE DATE.

This Ordinance shall be published in the manner provided by law and shall take effect thirty (30) days after publication.

MEMBERS PRESENT: Butler, Day, Stetler, Cook, Lammers

MEMBERS ABSENT: none

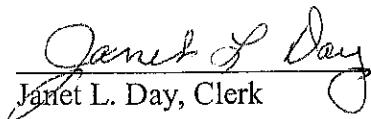
AYES: Butler, Day, Stetler, Cook, Lammers

NAYS: 0

Adopted: 12/13/2005

Effective: 2/2/2006


Denise Butler, Supervisor


Janet L. Day, Clerk