

STATE OF MICHIGAN

COUNTY OF LIVINGSTON

HAMBURG TOWNSHIP

ORDINANCE NO. C-____-2023

AN ORDINANCE TO AMEND THE CODE OF THE HAMBURG TOWNSHIP, CHAPTER 20, "NUISANCES," ARTICLE III-DANGEROUS/ABANDONED BUILDINGS, FOR THE PURPOSE OF UPDATING THE ORDINANCE TO AMEND THE PROCESS FOR A DANGEROUS BUILDINGS HEARING

HAMBURG TOWNSHIP ORDAINS:

Section 1 of Ordinance. Ordinance Amendment

ARTICLE III. DANGEROUS/ABANDONED BUILDINGS

Sec. 20-31. Intent and purpose.

It is the intent and purpose of the Township of Hamburg to preserve, promote the health, safety and general welfare of the citizens of the Township by establishing an ordinance addressing the problems concerning the dangers, blight and unsafe conditions as may be caused by dangerous or abandoned buildings as hereinafter defined.

Sec. 20-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous building means any building or structure which has one or more of the following defects or conditions:

- (1) Any door, aisle, passageway, stairway or other means of exit does not conform to the State, County or Township Fire Code or the State, County or Township Building Code enforced within the Township.
- (2) Any portion of the building or structure has been damaged by fire, wind, flood, or by any other cause so that its structural strength or stability is appreciably less than it was before such damage and does not meet the minimum requirements of the Housing Law of the State of Michigan, Public Act No. 167 of 1917, as amended, or the State, County or Township Building Code enforced within the Township for a new building or structure, purpose or location.
- (3) Any part of the building or structure is likely to fall or to become detached or dislodged, or to collapse and injure persons or damage property.
- (4) Any portion of the building or structure has settled to such an extent that its walls or other structural portions have materially less resistance to wind than is required in the case of new construction by the Housing Law of the State of Michigan, Public Act No. 167 of 1917, or the building code enforced in the Township.
- (5) The building or structure or any 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.
- (6) The building structure, or any 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 or criminals, or enables persons to utilize 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, commercial, or industrial purposes, including the adjoining grounds, which because of dilapidation, decay, damage, faulty construction or otherwise, is unsanitary or unfit for its intended use or is in a condition that the state, county or Township has determined is likely to cause sickness or disease or is otherwise a dangerous building.
- (9) When a building or structure is vacant or 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 licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2518. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:
 - (a) A building or structure if the owner or agent does both of the following:
 - (ii) Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure 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 building or structure becomes unoccupied.

- (ii) Maintains the exterior of the building or structure and adjoining grounds in accordance with this act or a building code of the city, village, or township in which the building or structure is located.
- (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 a local law enforcement agency in whose jurisdiction the dwelling is located 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, including, but not limited to, 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.

Enforcing agency means the Township through the Township Ordinance Enforcement Officer and/or such other official or agency as may be designated by the Township Board to enforce this Article . *Interested Party* means the person or persons whose names appear on a title search conducted on the property.

Ordinance means the dangerous/abandoned building ordinance.

Ordinance enforcement officer means the zoning administrator or any other officer or agent designated by Township Board of Trustees.

Owner means the person or party in interest in a building or structure in whose name the property appears in the most current tax assessments records or title search of the property.

Public nuisance means a building or structure that endangers the health, safety, peace, comfort, or convenience or the general public.

State, County or Township Building Code means the code administered and enforced in the Township pursuant to the State Construction Commission Act, Public Act No. 230 of 1972 (MCL 125.1501 et seq.), as amended.

Township means the Township of Hamburg.

Vacant and dangerous building means any dwelling, building, or structure, or any part thereof, which is both vacant and dangerous.

Vacant building means any dwelling, building, or structure, or any part thereof, in which the building or structure is unoccupied or is not being put to use, and photographs, tax records, and other evidence indicate that there is no interest to maintain occupancy of the building or structure.

Sec. 20-33. Violation; Notice; contents; filing of notice; appeals of determination regarding dangerous buildings.

- (a) *Notice requirement.* Whenever the Township, through its ordinance enforcement officer, determines that the whole or any part of any building or structure is a dangerous building, as defined in section 20-32, the ordinance enforcement officer 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 most current tax assessment records of the Township or a title search.
- (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.* The notice shall be in writing and shall be served on 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.
- (e) *Appointment of Hearing Officer.* The hearing officer shall be appointed by the Township Board to serve at its 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 township should not be appointed as hearing officer. The township shall file a copy of the notice that the building or structure is dangerous with the hearing officer.
- (f) *Hearing testimony and decision.* At the hearing prescribed by this article, the hearing officer shall take testimony and may receive evidence of the Township, the owner of the property, and any interested party. 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.
- (g) *Order, compliance with order.* If the hearing officer determines that that the building or structure should be demolished or otherwise made safe or properly maintained, he or she shall so order, stating what action the owner, agent, or lessee shall take and set a date by which the owner, agent or lessee to comply with the order. If the building is a “dangerous building” as defined of the definition in the term “dangerous building,” in Section 20-32, 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 laws, trees and shrubs. 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 20-33 (d).
- (h) *Noncompliance with Order; request to enforce order.* If the owner or party in interest fails to appear, or neglects or refuses to comply with the order issued under subsection (g) of 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 (5) days after noncompliance by the owner and request that necessary action be taken to enforce the order.
- (i) *Enforcement hearing.* The Township Board shall fix a date, not less than thirty (30) days after the hearing prescribed in subsection (f) of this section, 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 (d) of this section 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 sixty (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 fire, wind, 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, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttal presumption that the building or structure requires immediate demolition exists.

- (j) *Reimbursement of costs.* The costs of the demolition include, but are not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court report attendance, consultant and attorney fees, and costs of the collection of the charges authorized herein. The cost of demolition, making the building safe or 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 article shall be reimbursed to the township by the owner or party in interest in whose name the property appears upon the last local tax assessment records.
- (k) *Notice of costs.* The owner or party in interest in whose name the property appears upon the last local tax assessment records or title search shall be notified by the assessor of the amount of the costs of the demolition, making the building safe or 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.
- (l) *Lien for unpaid costs.* If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by the assessor of the notice of the amount of the costs, the township shall have a lien for the costs incurred by the township to bring the property into conformance with this chapter. Notice of the lien shall be recorded with the Livingston County register of deeds. 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 No. 206 of 1892 (MCL 211.1 et seq.).
- (m) *Court judgment for unpaid costs.* In addition to other remedies, the township may bring an action against the owner of the building or structure for the full cost of the demolition, 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 pursuant to this subsection. The lien shall be recorded with the Livingston County register of deeds.

Sec. 20-34. Implementation and enforcement of remedies.

- (a) *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.
- (b) *Lien for judgment amount.* The Township shall have a lien for the amount of a judgment obtained 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 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 previously filed or recorded liens and encumbrances.

- (c) *Municipal infraction.* A person who fails or refuses to comply with an order approved or modified by the Township Board within the time prescribed is guilty of a municipal civil infraction, punishable as provided in section 1-11.
- (d) *Appeals.* An owner aggrieved by any final decision or order of the Township Board under section 20-33 (h) may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

Sec. 20-35. Penalties.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction.
 - (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
 - (c) The fines and penalties in section 1-45 are incorporated herein by reference.
- (Ord. No. 85-A, § 6.0, 12-19-2017)

Sec. 20-36. Restoration to a safe condition.

A vacant and dangerous building which is ordered to be demolished or repaired by the Township Board may be restored to a safe condition, subject to the standards set forth in this division and inspection and approval by the ordinance enforcement officer. If the damage or cost of such reconstruction or restoration is in excess of 50 percent of the replacement value of such building, exclusive of foundations, the building shall be made to comply in all respects with the requirements for materials and methods of construction as specified in the township building code.

Sec. 20-37. - Closing of vacant structures.

If a building, or part thereof, is vacant and unfit for human habitation, occupancy or use, and is not in danger of structural collapse, the ordinance enforcement officer may order the structure to be closed up. In cases where glazed areas are cracked or broken and damage is minimal, the glazed areas shall be replaced with approved glazing material. In cases where damage to glazed areas is substantial, the ordinance enforcement officer may require the closing up of the glazed areas in compliance with the following boarding standards:

- (1) *Boarding standards.* All windows and doors shall be boarded in a manner approved by the ordinance enforcement officer so as to prevent entry by unauthorized persons.
- (2) *Approved boarding materials.* Boarding materials shall, at a minimum, consist of the following:
 - a. Half-inch CDX plywood, or its equivalent, per American Plywood Association Performance Rated OSB Board.
 - b. Two, two-inch by four-inch strongbacks which shall be cut 12 inches wider than the door or window width opening.
 - c. Four, three-eighths-inch carriage bolts which shall be long enough to provide full nut thread when assembled.
- (3) *Assembly of boarding material.* The boarding material shall be cut to neatly fit the door or window opening, or if the boarding material is to be overlaid, it shall be cut to provide an equal margin around the door or window.
- (4) *Color of boarding material.* Boarding material shall be painted to correspond to the color of the existing structure.

(5) *Ongoing maintenance.* Closed structures shall be maintained on an ongoing basis in accordance with the standards set forth in this section. The Township Board may require the applicant to post a performance bond in the form of an irrevocable letter of credit or cash escrow to assure proper maintenance of such closed structures.

Sec. 20-38. - Demolition.

- (a) If either the property owner or the township decides to demolish a vacant and dangerous building, the procedures and standards in this section shall be followed. If the township initiates the demolition, the township may employ independent contractors to complete such work.
- (b) Before demolition work is begun, the person responsible for demolition shall obtain cutoff letters from the utility company for gas, water and electricity, and submit such letters with the application for a demolition permit. Sewer, water lines or wells shall be capped and inspected. Existing septic tanks shall be drained, removed and backfilled with sand or fill dirt, subject to inspection by the ordinance enforcement officer before covering of such septic tanks. Underground storage tanks shall be emptied and removed from the ground in accordance with the requirements of the state police fire marshal division and the state department of natural resources.
- (c) The person responsible for demolition shall demolish the structure and clear the lot of all debris; remove the basement walls and floor; remove all masonry and other debris from the site; and fill the basement to grade level with fill dirt containing not more than two percent field stone in excess of six-inch diameter. The filled basement area and other barren areas shall be seeded and mulched. Basements shall be completely filled at the time the structure is removed. During demolition operations, approved barricades shall be erected to protect the health and safety of the community. Only clean fill shall be used. The person responsible for demolition shall indicate in writing the source of any fill and provide certification that the fill contains no hazardous substances or polluting materials. The term "hazardous substances and polluting materials" means hazardous chemicals as defined by the state department of public health and the state department of labor; flammable and combustible liquids as defined by the state police fire marshal division; critical materials, polluting materials and hazardous waste as defined by the state department of natural resources; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

Sec. 20-39. - Cleanup of contaminated soils and hazardous substances.

The property owner shall be responsible for cleanup of any contaminated soils, hazardous substances or polluting materials on the site, pursuant to current law and department of natural resources regulations. Such cleanup shall be required regardless of the method of correcting other dangerous conditions covered under this article.

Sec. 20-40. - Circuit court.

An owner or other interested party aggrieved by the final decision or order of the Township Board regarding a vacant and dangerous building 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 of the Township Board.

Sec. 20-41. - Injunctive power.

The township may, at its option, seek injunctive power or other legal remedies in the circuit court or other applicable court of law to enforce the terms and conditions of this article. However, the township is not compelled to take such action.

Sec. 20-42. - Violations; penalties.

In addition to the remedies set forth in this article, any person who violates any of the provisions of this article shall be deemed guilty of a municipal civil infraction, punishable as provided in section 1-11.

Sec. 20-43. - Recovery of costs.

(a) The cost of the demolition or making a vacant and dangerous building safe, including the cost of work required to correct an emergency situation, shall be a lien against the real property, and shall be reported to the township assessor, who shall assess the cost against the property on which the vacant and dangerous building or structure is located.

(b) The owner or other interested party in whose name the property appears upon the most recent local tax assessment records or title search shall be notified of the amount of such cost by certified mail, return receipt requested, at the address shown on the tax assessment records. If such person fails to pay the costs in full within thirty (30) days after the notice is mailed, the township assessor shall add the costs to the next tax roll and the costs shall be collected in the same manner, in all respects, as provided by law for the collection of property taxes.

Secs. 20-44—20-60. Reserved.

Section 2 of Ordinance. Severability.

If any section, clause or provision of this ordinance shall be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 3 of Ordinance. Repealer

All other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4 of Ordinance. Effective Date.

This amendatory ordinance shall be effective 10 days after adoption by the Hamburg Township—and after publication as required by law.

Ayes:

Nays:

Abstentions:

Absent:

STATE OF MICHIGAN)
)ss.
COUNTY OF LIVINGSTON)

I, the undersigned, the Township Clerk of Hamburg Township, Livingston County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the Hamburg Township Board of Livingston County at a meeting held of the ____ day of _____, 2023, the original of which is on file in my office.

Mike Dolan, Township Clerk
Hamburg Township

