

CHARTER TOWNSHIP OF RUTLAND

BARRY COUNTY, MICHIGAN

ORDINANCE NO. 2018-163

RUTLAND CHARTER TOWNSHIP DANGEROUS BUILDINGS ORDINANCE

ADOPTED: JANUARY 10, 2018

EFFECTIVE: FEBRUARY 17, 2018

An Ordinance to amend the Rutland Charter Township Code by enacting as new Chapter 100 pursuant to pertinent provisions of the Housing Law of the State of Michigan (*MCL 125.538 et. seq.*), and Section 15 of the Charter Township Act (*MCL 42.15*) and/or the Township Ordinances Act (*MCL 41.181*) to promote the health, safety and welfare of the people of Rutland Charter Township, Barry 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 sanctions for the violation of this ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

CHARTER TOWNSHIP OF RUTLAND

BARRY COUNTY, MICHIGAN

ORDAINS:

§ 100-1. Title

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

§ 100-2. Definitions of terms

As used in this ordinance, including in this section, the following words and terms shall have the meanings stated herein:

- A. "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 Township Fire Code or Township Building Code.
 - 2. A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is

appreciably less than it was before the damage 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 section 125.401 et seq. of the Michigan Compiled Laws, or the Township 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 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 Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 et seq. of the Michigan Compiled Laws, or the Township Building Code.
5. The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, 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, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, 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 for other reason, 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. The 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 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:

(1) Notifies the Barry 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.

(2) Maintains the exterior of the building or structure and adjoining grounds in accordance with the Housing Law of the State of Michigan or the Building Code administered and enforced in Rutland Charter Township.

(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 Barry 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 subparagraph shall notify the Barry County Sheriff's Department 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.

B. "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.

C. "Township Building Code" means the construction code(s) administered and enforced by the Township pursuant to the State Construction Code Commission Act, Act No. 230 of the Public Acts of 1972, as amended, being section 125.1501 et seq. of the Michigan Compiled Laws.

§ 100-3. Prohibition of dangerous buildings

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this ordinance.

§ 100-4. 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 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 included in the notice.

§ 100-5. 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 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 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 with the Hearing Officer.
- C. 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 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 enter an order that specifies what action the owner, agent or lessee shall take and that sets a date by which the owner, agent or lessee shall comply with the order.

- 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 § 100-5.D of this chapter, 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 the date for compliance set in the order, 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 § 100-4.D of this chapter.

§ 100-6. Enforcement hearing before the Township Board

The Township Board shall set a date not less than 30 days after the hearing prescribed in § 100-5.C of this chapter 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 § 100-4.D of this chapter 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, unless the Township Board order specifies a different period of time greater than 60 days. For an order of demolition, if the Township Board determines that the building or structure has been substantially destroyed by 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, unless the Township Board order specifies a different period of time greater than 21 days. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, there is a rebuttable presumption that the building or structure requires immediate demolition.

§ 100-7. Appeal of Township Board order

An owner aggrieved by any final decision or order of the Township Board under § 100-6 of this chapter 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 or order.

§ 100-8. Implementation and enforcement of 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 order 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 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. The cost of demolition includes, but is not limited to, fees paid to the Hearing Officer, 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 reporter attendance fees, and costs of the collection of the charges authorized under this ordinance.
- 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, 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 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 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 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, 1893 Public Act 206, as amended, being Section 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 safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- F. Enforcement of Judgment. A judgment in an action brought pursuant to § 220-8.E of this ordinance may be enforced against assets of the owner other than the building or structure.
- G. Lien for Judgment Amount. The Township shall have a lien for the amount of a judgment obtained pursuant to § 100-8.E of this chapter 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.

§ 100-9. Violations and enforcement

- A. A person who fails or refuses to comply with an order approved or modified by the Township Board under § 100-6 of this chapter within the time prescribed is guilty of a misdemeanor, punishable by imprisonment for not more than 120 days and/or a fine of not more than \$1,000.
- B. Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Any violation of this Ordinance is hereby declared to constitute a public nuisance, and shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. This Ordinance shall be enforced by the Ordinance Enforcement Officer(s) of Rutland Charter Township and by such other person or persons as the Township Board may designate.

§ 100-10. 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.

§ 100-11. Repeal

All 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 State Construction Code Ordinance (Article 1 of Code Chapter 95) or any code administered thereunder, or any provision of the Zoning Ordinance (Code Chapter 220).

§ 100-12. Effective date

This ordinance shall take effect 30 days after publication as required by law.

RUTLAND CHARTER TOWNSHIP

BARRY COUNTY, MICHIGAN

NOTICE OF ADOPTION/SUMMARY OF DANGEROUS BUILDINGS ORDINANCE

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF RUTLAND, BARRY COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that Ordinance No. 2018-163 was adopted by the Rutland Charter Township Board at its January 10, 2018 meeting. This Ordinance enacts as new Chapter 100 of the Rutland Charter Township Code a Dangerous Buildings Ordinance, the sections of which are summarized as follows:

§ 100-1---TITLE: Designates the Ordinance as the Rutland Charter Township Dangerous Buildings Ordinance.

§ 100-2---DEFINITIONS OF TERMS: Defines the terms “dangerous building”, “enforcing agency”, and “Township Building Code” for purposes of the Ordinance.

§ 100-3---PROHIBITION OF DANGEROUS BUILDINGS: Makes it unlawful to keep or maintain a dangerous building.

§ 100-4---NOTICE OF DANGEROUS BUILDING; HEARING: Requires the enforcing agency to give notice of a dangerous building determination and the resulting hearing thereon to the owner/party in interest of the dangerous building, in a specified manner.

§ 100-5---DANGEROUS BUILDING HEARING OFFICER; DUTIES; HEARING; ORDER: Provides for a dangerous building Hearing Officer appointed by Township Supervisor; requires Hearing Officer to take testimony at the prescribed hearing and make a decision either closing the proceedings, or ordering the dangerous building demolished or otherwise made safe or properly maintained; requires compliance with Hearing Officer order; requires referral of non-compliance with order to Township Board for enforcement action.

§ 100-6---ENFORCEMENT HEARING BEFORE TOWNSHIP BOARD: Requires a hearing on Hearing Officer findings and order with prescribed notice to owner or other party in interest; authorizes Township Board to approve, disapprove or modify Hearing Officer order; provides for order of demolition by Township Board.

§ 100-7---APPEAL OF TOWNSHIP BOARD ORDER: Provides for appeal of Township Board decision or order to Circuit Court within prescribed time.

§ 100-8---IMPLEMENTATION AND ENFORCEMENT OF REMEDIES: Authorizes Township Board to implement its order of demolition etc.; requires reimbursement of all costs to Township, with notice of such costs; provides for a lien and court judgment for unpaid costs; and further provides for enforcement of judgment.

§ 100-9---VIOLATIONS AND ENFORCEMENT: Designates failure or refusal to comply with a Township Board order under § 100-6 of the Ordinance as a misdemeanor punishable by 120 days jail and/or \$1,000 fine; declares any violation of the Ordinance to constitute a public nuisance subject to appropriate relief; and otherwise addresses enforcement of the Ordinance.

§ 100-10---SEVERABILITY: Indicates any provision of the Ordinance declared unenforceable by a court does not affect the remainder of the Ordinance.

§ 100-11---REPEAL: Repeals conflicting ordinances or parts of ordinances; but does not repeal expressly or by implication any provision of the State Construction Code Ordinance (Article 1 of Code Chapter 95) or any code administered thereunder, or any provision of the Zoning Ordinance (Code Chapter 220).

§ 100-12---EFFECTIVE DATE: States the Ordinance takes effect 30 days after publication as required by law.

This ordinance in its entirety has been posted in the office of the Township Clerk and on the Township website (www.rutlandtownship.org).

A copy of the ordinance may also be purchased by contacting the Township Clerk as indicated below during regular business hours of regular working days, and at such other times as may be arranged.

Robin J. Hawthorne, Clerk
Charter Township of Rutland
Rutland Charter Township Hall
2461 Heath Road
Hastings, Michigan 49058
Telephone: (269) 948-2194