

ORDINANCE # 01-09

MIDDLE BRANCH TOWNSHIP

DANGEROUS BUILDING ORDINANCE

**THE TOWNSHIP OF MIDDLE BRANCH, OSCEOLA COUNTY, MICHIGAN,
HEREBY ORDAINS:**

Purpose of Ordinance:

An ordinance to secure the public peace, health, safety and welfare, and convenience of the residents and property owners of Middle Branch Township, Osceola County, Michigan, by the regulation of uncompleted, abandoned, dilapidated, or deteriorated buildings injurious to life or health, within said township; to provide penalties for the violation thereof, and to repeal all Ordinances and parts of Ordinances in conflict therewith.

I. Title of Ordinance:

This ordinance shall be known and cited as the Middle Branch Township Dangerous Building Ordinance.

II. Regulations

- A. No building or structure, whether now existing or hereafter erected, shall be left in a dangerous or hazardous condition by virtue of disrepair, depreciation, damage by fire, collapse, or act of God, or by virtue of any other cause, but shall be forthwith repaired or rehabilitated, and the dangerous and hazardous condition removed by the owner or occupant thereof, or in the alternative, torn down and removed, and any excavation there under filled to grade level.
- B. No building so damaged or destroyed to such an extent that the cost of repair and rehabilitation to place it in a safe, sound and sanitary condition exceeds 50% of the true cash value of the building, at the same time the repairs or rehabilitation are to be made, shall be repaired or rehabilitated unless it is made to comply in all respects with the provisions of the International Property Maintenance Code, 2006 Edition, governing such building.
- C. Any building so damaged or destroyed to such an extent that the cost of repair and rehabilitation to place it in a safe, sound and sanitary condition exceeds 50% of the true cash value at the time when the repairs or rehabilitation are to be made, shall be deemed unfit for human habitation

and shall be immediately vacated, and unless made to comply with all the provisions of the International Property Maintenance Code, 2006 Edition, as previously adopted by Middle Branch Township, shall be demolished and removed.

- D. Whenever it shall be certified by the building inspector or health officer, retained by the township, that a building is infected with contagious disease or it unfit for human habitation, or dangerous to life or health by reason of want of repair or of defects in the drainage, plumbing, lighting, ventilation or the construction of the same, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said building, the building inspector or health officer may issue an order requiring all persons therein to vacate such building within the time specified, the building inspector or health officer may cause said dwelling to be vacated. Whenever the building inspector or health officer is satisfied that the danger from said building has ceased to exist or that it is fit for human habitation, he may revoke said order or may extend the time within which to comply with same.
- E. Whenever any building or premises or the plumbing, sewage, drainage, lighting, or ventilation thereof is, in the opinion of the building inspector or health officer, dangerous or detrimental to life or health, such officer may declare that the same to the extent he may specify, is a public nuisance, and may order the same to be removed abated, suspended, altered, or otherwise improved or purified, as the order shall specify.
- F. No mobile home, as defined by Michigan Statute, shall be placed in the Township if the mobile home is 10 years of age, or older, and less than \$15,000.00 in value, as determined by the township assessor.

III. Notice of Dangerous Building; Hearing

- A. **Notice Requirement:** Notwithstanding any other provision of this ordinance, if a building, structure or mobile home is found to be a dangerous building, the enforcing agency shall issue a notice that the building, structure or mobile home is a dangerous building.
- B. **Parties Entitled to Notice:** The notice shall be served on each owner of or party in interest of the building, structure or mobile home 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, structure or mobile home 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, structure or mobile home to be demolished, otherwise made safe or 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.

IV. 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, 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, structure or mobile home demolished, otherwise made safe, or properly maintained.
- D. **Compliance with Hearing Officer Order:** If the Hearing Officer determines that the building, structure or mobile home 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.
- 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 Section III, D of this ordinance, 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 Section III of this ordinance.

V. Enforcement Hearing Before the Township Board

The Township Board shall fix a date not less than 60 days after the hearing prescribed in Section IV, C of this ordinance 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 Section III 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 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 hearing under this section. In the case of an order of demolition, if the Township Board determines that the building, structure or mobile home has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause and the cost of repair of the building, structure or mobile home will be greater than the state equalized value of the building, structure or mobile home, 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 rebuttable presumption that the building or structure requires immediate demolition exists.

VI. Implementation and Enforcement of Remedies

- A. **Implementation of Order by Township:** In the event of 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, structure or mobile home, or grounds adjoining the building, structure or mobile home to promote safety.
- B. **Reimbursement of Costs:** The cost of demolition includes, but is 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 reporter attendance fees, and costs of the collection of the charges authorized under this act. The costs of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or mobile home or grounds adjoining the building, structure or mobile home, incurred by the Township to bring the property into conformance with this ordinance shall be reimbursed to the Township by the owner of 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, of making the building safe, or of maintaining the exterior of the building, structure or mobile, or grounds adjoining the building, structure or mobile home to promote safety, 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 cost, 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, Act No. 206 of the Public Acts of 1893, 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, structure or mobile home for the full cost of demolition, of making the building safe, or of maintaining the exterior of the building, structure or mobile home or grounds adjoining the building, structure or mobile home to promote safety. 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 Section VI, E, of this ordinance may be enforced against assets of the owner other than the building, structure or mobile home.
- G. **Lien for Judgment Amount:** The Township shall have a lien for the amount of a judgment obtained pursuant to Section VI, E, of this ordinance 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, structure or mobile home 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.

VII. Sanction for Nonconformance with Order

Any person or other entity who fails or refuses to comply with an order approved or modified by the Township Board under Section V of the ordinance within the time prescribe by that Section is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, 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 constitutes a separate violation.

VIII. Appeal of Township Board Decision

An owner aggrieved by any final decision or order of the Township Board, as applicable, under Section V of 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.

IX. Penalties and Civil Fines/Cost

Any person, firm or corporation found violating the provisions of this Ordinance, is responsible for a Municipal Civil Infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule: Each day that a violation shall continue, it constitutes a separate offense. The fine starts the day after the deadline date stated on the notice. Checks for fines shall be made payable to Middle Branch Township.

First Violation within a 3-year period*	\$50.00/per day
Second Violation within a 3-year period*	\$100.00/per day
Third Violation within a 3-year period*	\$200.00/per day
Fourth or subsequent violation within a 3-year period	\$400.00/per day

(*Determined on the basis oft he date of the violation(s))

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case however, shall costs of less then \$9.00 or more than \$500.00 be ordered. A violator oft his ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

Any violation of this ordinance shall also constitute a public nuisance, which may be abated by injunctive relief or any other remedy permitted by law.

X. 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.

XI. 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 an Applicable Building Code.

XII. Effective Date

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



, Supervisor



PEGGY HOARD, Clerk