

**MANCHESTER TOWNSHIP
WASHTENAW COUNTY
MICHIGAN**

Ordinance No. 88

An ordinance to promote the health, safety and welfare of the people of Manchester Township, Washtenaw County, Michigan, by regulating the maintenance and safety of certain buildings and structures; to define 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 enforcement, and fix penalties for the violation of this ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF MANCHESTER, WASHTENAW COUNTY, MICHIGAN, ORDAINS:

Section 1: Title.

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

Section 2: Definitions.

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

Building means any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. A building shall include tents, awnings, semi-trailers, or vehicles situated on a parcel and used for the purposes of a building. A building shall not include such structures as signs, or fences.

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:

- (1) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of 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 Michigan State Construction Code for a new building or structure, purpose, or location.

- (3) A part or appurtenance 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 Michigan State Construction 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, 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 vandalism, 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 1) unsanitary or unfit for human habitation, or 2) in a condition that the health officer of the county determines is likely to cause sickness or disease, or 3) 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 not "regularly occupied" 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, Act No. 299 of the Public Acts of Michigan of 1980, being MCL 339.2501—339.2515. 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 any of the following:
 - a. A building or structure as to which the owner or agent does both of the following:
 1. Notifies the Township building department in writing that the building or structure will remain not "regularly occupied" for a period of 180 consecutive days. The notice shall be given to the Township building department by the

owner or agent not more than 30 days after the building or structure becomes not "regularly occupied."

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with all applicable laws, ordinances, and regulations.
- b. A secondary dwelling of the owner that is normally not "regularly occupied" for a period of 180 days or longer each year, if the owner notifies the Township building department in writing that the dwelling will remain not "regularly occupied" 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 building department in writing 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 "regularly occupied" by the owner or a member of the owner's family during part of a year.
 - c. A new building or new structure under construction that meets all of the following conditions: 1) has a valid building permit, 2) demonstrates that significant and continuous progress is being made toward completion, 3) secures the property and takes all other necessary safety precautions, and 4) otherwise complies with this subsection and all applicable laws, ordinances, and regulations.

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof (except railroad cars, on tracks or rights-of-way) which is occupied in whole or in part as the home, residence, living or sleeping place of one (1) or more human beings, either permanently or transiently.

Occupant means any person living or sleeping in a building; or having possession of a space within a building.

Occupied means a building or portion thereof that has an occupant.

Regularly occupied means a building or portion of a building that is lawfully utilized or lawfully occupied for the purpose for which it is lawfully intended and designed and which if its intended purpose is residential normally has at least one person lawfully living or sleeping in it daily and which if its intended purpose is nonresidential normally has persons lawfully in it and utilizing it on a basis consistent with its lawful nonresidential purpose. Persons solely in the building for the purpose of maintenance, repair, or cleaning of the building do not make the building "regularly occupied."

Structure means anything constructed, erected or placed with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground.

Section 3: Dangerous building prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any building, structure, or part thereof which is a dangerous building. All such dangerous buildings shall be abated by alteration, repair, rehabilitation, demolition, or removal in accordance with the procedures specified within this ordinance.

Section 4: Inspections.

A representative of the Township building department with the assistance of the Township fire department and/or fire marshal shall inspect or cause to be inspected every building or structure or part thereof reported as or observed to be unsafe or damaged, and if such is found to be a dangerous building as defined in this ordinance, the building department shall commence proceedings to cause the repair, rehabilitation, demolition or removal of the building or structure.

Section 5: Notice.

- (a) *Issue.* Notwithstanding any other provision of this ordinance, if a building or structure is found to be a dangerous building, the Township building department shall issue a notice that the building or structure is a dangerous building.
- (b) *Persons who may be served 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.
- (c) *Contents, notice of hearing.* The notice shall specify the time 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.
- (d) *Hearing officer; filing of notice with officer.* The hearing officer shall be appointed by the Supervisor and be approved by the Township Board and shall then serve at the Supervisor's 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, member of a community housing organization, or any person with similar qualifications. An employee of the Township shall not be appointed as hearing officer. The Township building department shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

- (e) *Notice in writing; service.* 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 days before the date of the hearing included in the notice.

Section 6: Hearing; testimony; decision.

- (a) *Generally.* The hearing officer shall take testimony from representatives of the Township building department, the Township fire department, and/or fire marshal, 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.
- (b) *Order; compliance.* 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 or agent to comply with the order. If the building is a dangerous building under subsection (10) of the definition of dangerous building in section 2, 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.
- (c) *Failure to appear, noncompliance; filing report of findings; request to enforce order.* If the owner or agent fails to appear or neglects or refuses to comply with the order issued under section 6, subsection (b), 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 or owners 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 or agent in the manner prescribed in section 5.
- (d) *Hearing; notice, show cause why order should not be enforced, decision on order, compliance.* The Township Board shall fix a date not less than 30 days after the hearing prescribed in Section 6, subsection (a) for a hearing on the findings and order of the hearing officer and shall give notice to 1) the owner and 2) all interested parties, in the manner prescribed in section 5 of the time and place of the hearing. At the hearing, any interested party 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 or agent shall comply with the order within 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 or agent shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.

- (e) *Compliance costs; reimbursement.* The 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 incurred by the Township to bring the property into conformance with this ordinance, including the cost of consulting services, investigation, publication charges, attorney fees, court costs, and all administrative expenses shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.

- (f) *Notification; failure to reimburse; collection and lien for compliance 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 assessor of the amount of the 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 by first class mail at the address shown on the records. If the property in question is a single-family or two-family dwelling, and the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the Township shall thereupon place the entire sum, plus collection charge as set by resolution of the Township Board, on the tax rolls as an assessment against the parcel or lot, the assessment to be collected as other taxes are levied and collected. Such charges shall be added to the general Township tax roll, and to the total of the taxes levied on such parcel or lot for the same year. The Township shall have a lien for the cost incurred by the Township to bring the property into conformance with this ordinance and for any charges imposed until the amounts have been fully paid. 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 Michigan of 1893, being MCL 211.1 to 211.157, or the applicable ordinances of Manchester Township.

- (g) *Action against owner; lien on property.* 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. The Township shall have a lien on the property if it is a single-family or two-family building or structure 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 7: Judgment; enforcement against assets of owner.

- (a) A judgment in an action brought pursuant to subsection 6(g) may be enforced against assets of the owner other than the building or structure.
- (b) *Judgment lien.* The Township shall have a lien for the amount of a judgment obtained pursuant to subsection 6(g) against the owner's interest in all single-family and two-family dwellings located in this state that is owned in whole or in part by the owner of the dwelling 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 prior filed or recorded liens and encumbrances.

Section 8: Noncompliance with order; municipal civil infraction.

A person who fails or refuses to comply with an order approved or modified by the Township Board under section 6 within the time prescribed by that section is guilty of a municipal civil infraction as defined by Michigan Law and subject to a civil fine of not more than \$500.00, plus cost, 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.

Section 9: Judicial review.

An owner aggrieved by any final decision or order of the Township Board under section 6 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: Emergency situations.

Where it reasonably appears to the Township building department, fire department, police, or fire marshal that there is immediate danger to the public safety or health unless a dangerous building as defined in section 2 is immediately demolished or otherwise made safe, or whenever any building or structure becomes open at door(s) or window(s), or damaged from vandalism, fire, or other cause, including lawful entry by police enforcement, leaving the interior of the building or structure exposed to the elements, or accessible to entrance by trespassers; and the owner(s) or other responsible party is unable to be immediately contacted or cannot adequately secure the building or structure within one hour; and where it is determined that it is inappropriate to delay making such building or structure secure; such facts shall be reported to the building official or fire marshal who shall cause the immediate repair, demolition, or boarding up of such dangerous building or structure. The costs of such

immediate repair, demolition, or boarding up shall be the responsibility of the owner or party in interest which costs shall be paid within two weeks.

Section 11: Severability.

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

Section 12: Saving Clause

This ordinance shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 13: Effective Date

This ordinance shall be published once in a newspaper having general circulation in Manchester Township and shall take effect 30 days after the date of the publication of the ordinance.

Gene DeRossett, Township Supervisor

Ann M. Becktel, Township Clerk

I, Ann M. Becktel, Clerk for Manchester Township, hereby certify that the foregoing is a true and correct copy of Ordinance No. 88 of Manchester Township, adopted by resolution at a meeting of the Township Board of Trustees held on May 12, 2015, and the whole thereof now in my custody.

Ann M. Becktel, Township Clerk

A copy of the complete ordinance text may be inspected or purchased at the Manchester Township Hall, 275 South Macomb, Manchester, Michigan 48158. The office hours are 8:30 a.m. until noon Monday, Tuesday, Wednesday and Friday.

Adopted: 5/12/15

Published: 5/21/15

Effective: 5/28/15