

ARTICLE 7

PROVISIONS REGARDING DANGEROUS OR DILAPIDATED BUILDINGS OR PREMISES

701 PURPOSE

It is the purpose of this Article to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Michigan Construction Code, Housing Law, or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated, or demolished. The purpose of this Article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Article. The provisions of this Article shall apply to all dangerous buildings or structures, as herein defined, which are now or which may hereafter become dangerous in Whitehall Township.

702 DEFINITIONS AND ADMINISTRATION

A. The term "Building Official" shall mean the person(s) appointed by the White Lake Area Building Inspection Board to administer the Michigan Construction Code, and such other persons as who may be appointed by the Township Board from time to time, to administer and enforce this Article.

B. Reference to the "Michigan Construction Code" or the "Construction Code" shall refer to the "Stille-Derossett-Hale Single State Construction Code Act," MCLA 125.1501 et. seq., as same may be amended from time to time. Reference to "Housing Law" shall include, but not be limited to PA 167 of 1917, as amended, being MCL 125.401 et. seq., as same may be amended from time to time.

C. The term "Hearing Officer" shall mean such person(s) as the Township Supervisor shall appoint, from time to time, to conduct hearings as set forth below in this Article. Such Hearing Officer shall be a person who has expertise in housing matters, including an engineer, architect, building contractor, or building inspector of another jurisdiction. However, the Hearing Officer shall not be an employee of the agency that is enforcing this Article.

703 DEFINITION OF DANGEROUS BUILDING OR STRUCTURE

The term "Dangerous Building or Structure" 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:

- A. A door, aisle, passageway, stairway or other means of exit does not conform to the any applicable Fire Code, Housing Law or the Michigan Construction Code.
- 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 applicable Housing Law or the Michigan Construction Code.
- 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 applicable Housing Law or the Michigan Construction Code.
- 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 way.
- 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 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.

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 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 339.2501 et seq. of the Michigan Compiled Laws, or is not publicly offered for sale by the owner. This subdivision 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: Notifies the Muskegon County Sheriff's Department and the Township Clerk that the building or structure will remain unoccupied for a period of 180 consecutive days; and, maintains the exterior of the building or structure and adjoining grounds in accordance with this ordinance and applicable Housing Law or the Michigan Construction Code.

2. 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 Muskegon County Sheriff's Department and the Township Clerk that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. As used in this subparagraph, "secondary dwelling" means a dwelling such as a vacation home, hunting cabin or summer home, which is occupied by the owner or a member of the owner's family during part of year.

704 PROHIBITION OF DANGEROUS BUILDINGS OR STRUCTURES

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

705 NOTICE OF DANGEROUS BUILDING OR STRUCTURE

A. Notwithstanding any other provision of this ordinance, if a building or structure is found to be a dangerous building, the building official shall issue a notice that the building or structure is a dangerous building.

B. 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. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building, and shall also 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. 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.

706 FIRST HEARING: BY HEARING OFFICER ON DANGEROUS BUILDING OR STRUCTURE

A. At the hearing before the Hearing Officer, as stated above, the Hearing Officer shall take testimony of the building official and/or other persons familiar with the allegations, as well as the owner of the property and any interested party that appears and desires to provide testimony. 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. 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. A copy of the findings and decision of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in Section 704 of this Article.

707 SECOND HEARING: BY TOWNSHIP BOARD ON DANGEROUS BUILDING OR STRUCTURE

A. Upon the entry of the Hearing Officer's decision, the Township Supervisor shall fix a date, at least 30 days after the hearing before the Hearing Officer, for a hearing before the Township Board on the findings and decision of the Hearing Officer, and shall give notice to the owner, agent or lessee in the manner prescribed in Section 704 of this Article, of the time and place of the hearing. At the hearing, the owner, agent or lessee, or other interested party, shall be given the opportunity to show cause why the decision of the Hearing Officer should not be enforced. The Township Board may also hear from the building official or other

persons familiar with the allegations, and then shall either approve, disapprove or modify the decision of the Hearing Officer.

B. If the Township Board approves or modifies the decision, the Township Board shall take all necessary action to enforce the decision. If the decision 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. In the case of a decision requiring the demolition of the building or structure, 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 decision within 21 days after the date of the hearing before the Township Board under this section.

708 IMPLEMENTATION AND ENFORCEMENT OF REMEDIES

The foregoing remedies shall be in addition to any criminal prosecution or other civil rights or remedies available to the Township under law, including the recovery of the Township's actual costs of prosecution, including actual attorney fees.

A. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Township Board, then 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. The costs of the demolition, of making the building or 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 shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.

C. 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 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. If the owner or party in interest fails to pay the costs within 30 days after mailing by the Township 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. In addition to other remedies under this Article, 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 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. A judgment in an action brought pursuant to Article may be enforced against assets of the owner other than the building or structure.