



CITY OF OTSEGO

117 E. Orleans Street
Otsego MI 49078
269-692-3391
269-692-2643 (F)
WWW.CITYOFOTSEGO.ORG

Commissioner McNees moved to adopt Ordinance #168 – Dangerous Buildings, seconded by Commissioner Krueger.

AN ORDINANCE TO AMEND THE OTSEGO CITY CODE OF ORDINANCES DANGEROUS BUILDINGS

THE CITY OF OTSEGO ORDAINS:

Article IV: Dangerous Buildings

SECTION 10-161: DEFINITIONS

As used in this chapter:

- A. "Act" means Act 167 of the Public Acts 1917, as amended, being the Housing Law of Michigan.
- B. "Attractive nuisance" means a condition likely to attract curious children.
- C. "Building code" means Building Code(s) as enforced by the City.
- D. "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 Fire Code as adopted by these Codified Ordinances.
 - 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 damage and does not meet the minimum requirements of the Act or the City's the Building Code.
 - 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 Act or the City's 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 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 fire, wind or flood, is dilapidated or deteriorated and becomes an attractive nuisance, becomes a harbor for vagrants, criminals, 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 County Health Officer 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. A building or structure that is vacant, dilapidated or open at a 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 State Occupational Code, Act 299 of the Public Acts of 1980, as amended. 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 as to which the owner or agent does both of the following:
 - (i) Notifies the City Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the Police Department by the owner or the

owner's 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 the Act and the City's Building code.

(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 City Police 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 Police Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this paragraph, "secondary dwelling" means a dwelling such as 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.

SECTION 10-162: GENERAL PROHIBITION

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building.

SECTION 10-163: NOTICES; HEARING OFFICER

- A. If a building or structure is found to be a dangerous building, the City shall issue a notice that the building or structure is a dangerous building under this chapter.
- B. The notice shall be served on the owner, agent or lessee that is registered with the City pursuant to MCL 125.525. If an owner, agent or lessee is not registered, the notice shall be served on each owner or party in interest in the building or structure in whose name the property appears on the last City tax assessment records.
- C. 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.
- D. 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.

- E. The Hearing Officer shall be appointed by the Mayor 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 City shall not be appointed as a Hearing Officer. The City shall file a copy of the notice that the building or structure is a dangerous building with the Hearing Officer.

SECTION 10-164: HEARINGS

- A. At the hearing, the Hearing Officer shall take testimony of the City Inspectors and witnesses, 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. 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, specifying the action the owner, agent, or lessee shall take and fixing a time by which the owner, agent or lessee shall comply with the order. If the building is a dangerous building under Section 10-161(d)(10), 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. If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (b) hereof, the Hearing Officer shall file a report of the findings and a copy of the order with the City Commission 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. The Hearing Officer shall file the report of the findings and a copy of the order with the City Commission 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 10-162.
- D. The City Commission shall fix a date not less than 30 days after the hearing before the Hearing Officer 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 10-162 of the time and place of the hearing. At the hearing before the City Commission, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced.
- E. The City Commission shall either approve, disapprove or modify the order of the Hearing Officer. If the City Commission approves or modifies the order, the City Commission 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 subsection. In the case of an order of demolition, if the City Commission 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. 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.

- F. 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 City to bring the property into conformance with this chapter, shall be reimbursed to the City by the owner or party in interest in whose name the property appears. The cost of demolition, making the building safe, or of maintaining the exterior of the building or structure and grounds adjoining the building or structure 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 Article, including but not limited to the costs of placarding and vacating a dangerous building.

- G. The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the City Assessor 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 owner or party in interest fails to pay the cost within 30 days after mailing by the City Assessor of the notice of the amount of the cost, the City shall have a lien for the cost incurred by the City to bring the property into conformance with this chapter. 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, being Act 206 of the Public Acts of 1893, as amended.

- H. In addition to other remedies prescribed in this chapter, the City 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 City 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 or recorded as provided by law. The lien does not have priority over previously filed or recorded liens and encumbrances.

SECTION 10-165: JUDGMENTS

- A. A judgment in an action brought pursuant to Section 10-164(H) may be enforced against assets of the owner other than the building or structure.

- B. The City shall have a lien for the amount of a judgment obtained pursuant to Section 10-164(H) 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 section 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 10-166: PLACARDING AND VACATING; ABATEMENT OF RENT

- A. If the Hearing Officer or City Commission determines that a building is a dangerous building and that it should be razed or repaired, the City shall post, in a conspicuous place on the dangerous building, a placard describing the ordered action. No person, other than the City authorized official(s), shall deface or remove said placard.

- B. A dangerous building which has been placarded under this section shall be vacated by all occupants within a reasonable time, as required by the City. No owner or operator shall let to any person for human occupancy and no person shall occupy nor permit anyone to occupy such dangerous building which has been placarded by the City after the date on which the City has required such building to be vacated, until written approval is secured from, and such placard is removed by, the City. The City shall remove such placard upon the repair of the dangerous conditions.

- C. If, pursuant to the provisions of this section, a dangerous building has been ordered vacated by the City and there is no compliance with the order in the time specified, the City may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate the dangerous building forthwith.

- D. If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

SECTION 10-167: PENALTY

- A. A person who fails or refuses to comply with an order approved or modified by the City Commission under Section 10-164 within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than 120 days or a fine of not more than one thousand dollars (\$1,000) or both.

- B. A person who occupies a dangerous building or permits a dangerous building of which they are an owner or agent to be occupied, is guilty of a misdemeanor punishable by imprisonment for ninety days or a fine of five hundred dollars (\$500) or both.

- C. A person, other than a City authorized official(s), who defaces or removes a dangerous building placard is guilty of a misdemeanor punishable by imprisonment for forty-five days or a fine of two hundred fifty dollars (\$250) or both.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days' time following its final adoption in accordance with the City Charter.

Passed and approved on the 7th day of June, 2021, with the following vote:

YEAS: Commissioners: Stacey Withee, Lauri Krueger, Brent Milhiem, and Dustin McNees.

NAYS: Commissioners: None.

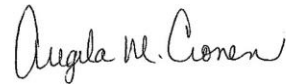
ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Cyndi Trobeck.

ORDINANCE ADOPTED.

CERTIFICATE

I, Angela M. Cronen, the duly appointed clerk of the City of Otsego do hereby certify the foregoing is a true and complete copy of an Ordinance adopted by the Otsego City Commission at a regular meeting held Monday, June 7, 2021, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, the minutes of the meeting were kept and will be or have been made available as required by said Act.



Attest: _____

Angela M. Cronen, City Clerk

Introduced: May 17, 2021

Published Summary: May 27, 2021

Adopted: Possible – June 7, 2021

Published: Possible – June 8, 2021

Effective: Possible – June 27, 2021