

TOWNSHIP OF CHIKAMING  
BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 78  
Adopted 14 December 1995

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF CHIKAMING TOWNSHIP, BERRIEN 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 PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT THEREWITH.

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1. Title. This ordinance shall be known and may be cited as the "Chikaming Township Dangerous Buildings Ordinance."

Section 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 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 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 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 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, 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 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, 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 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. 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 unoccupied for a period of 365 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:
  - a. A building or structure as to which the owner or agent does both of the following:
    - (1) Notifies the Township Police Department that the building or structure will remain unoccupied for a period of 365 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 this ordinance and 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.
  - b. A secondary dwelling of the owner that is regularly unoccupied for a period of 365 days or longer each year, if the owner notifies the Township Police Department that the dwelling will remain unoccupied for a period of 365 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the Township Police 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 such as a vacation home or summer home, that is occupied by the owner or a member of the owner's family during part of year.

- B. "Enforcing agency" means this Township, through the Township Building and 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 building code administered and enforced in 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.

Section 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.

Section 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.

Section 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 so order,

fixing a time in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under Section 2.A.10., of this ordinance, 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.

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 5.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 4.D., of this ordinance.

Section 6. Enforcement Hearing Before the Township Board. The Township Board shall fix a date not less than 30 days after the hearing prescribed in Section 5.,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 4.D., 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 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. 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, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

Section 7. 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 decision of the Township Board, it 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.

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 cost, in the case of a single family dwelling or a two family dwelling, 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 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. In the case of a single family dwelling or a two family dwelling, 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 7.E., of this ordinance may be enforced against assets of the owner other than the building or structure.

G. Lien for Judgment Amount. In the case of a single family dwelling or a two family dwelling the Township shall have a lien for the amount of a judgment obtained pursuant to Section 7.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 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.

Section 8. Penalty for Nonconformance with Order. Any person, firm or corporation who violates any of the provisions of this Ordinance, in addition to the other provisions of this Ordinance, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than Two Hundred Fifty (\$250.00) Dollars, plus costs and other sanctions.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than Five Hundred (\$500.00) Dollars, plus costs and other sanctions.

A repeat offense means a second (or any subsequent) violation of this Ordinance (i) committed by a person within any six (6) month period and (ii) for which the person admits responsibility or is determined to be responsible.

Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

Section 9. Appeal of Township Board Decision. An owner aggrieved by any final decision or order of the Township Board, under Section 6., of this ordinance may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 21 days from the date of the decision.

Section 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.

Section 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 provisions of the Township Building Code.

Section 12. Effective Date. This ordinance was adopted by the Township Board of the Township of Chikaming at a regular meeting held in the Township Hall on the 14th day of December, 1995, and ordered effective on the 1st day of February 1996, the same being more than thirty (30) days after its passage.

Jeanne S. Dudeck  
 Jeanne S. Dudeck, Clerk  
 Township of Chikaming

Attest:

Harold J. Gilmore  
 Harold J. Gilmore, Supervisor  
 Township of Chikaming

**CERTIFICATION**

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 78, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 14th day of December, 1995. I further certify that Gibson moved the adoption of said ordinance and Zimmerman supported said motion. The names and the members of the Township Board and their vote on the foregoing ordinance were as follows:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Gibson	<u>X</u>	_____	_____	_____
Zimmerman	<u>X</u>	_____	_____	_____
Simmons	<u>X</u>	_____	_____	_____
Dudeck	<u>X</u>	_____	_____	_____
Gilmore	<u>X</u>	_____	_____	_____

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 14th day of December, 1995, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that the foregoing ordinance was published in full in the Southcounty Gazette & Shopper, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 25th day of December, 1995.

Dated: December 14, 1995

Jeanne S. Dudeck  
 Jeanne S. Dudeck, Clerk  
 Township of Chikaming