

ROSE CITY DANGEROUS BUILDINGS ORDINANCE

The City of Rose City, County of Ogemaw, State of Michigan

ORDAINS:

ORDINANCE NO.: _____

Adopted: _____

Effective: _____

AN ORDINANCE to secure the public peace, health, safety and welfare of the residents and property owners of the City of Rose City, County of Ogemaw, Michigan, by the regulation of dangerous buildings posing an unreasonable risk of injury to life or health; to provide for the means by way of hearings for the making safe or demolition of such dangerous buildings; to provide for the appointment of a hearing officer; to provide penalties for the violation of said ordinance; to provide for assessment of the cost of said making safe or demolition of dangerous buildings; and to repeal all ordinances and parts of ordinances in conflict therewith.

SECTION I.

This Ordinance shall be known and cited as the Rose City Dangerous Buildings Ordinance.

SECTION II.

As used in this Ordinance, the term “dangerous building” means any building or structure, residential or otherwise, which has any of the following defects or is in one (1) or more of any of the following conditions:

- a. A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the city, village, or township in which the building or structure is located.
- b. A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, 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 this act or a building code of the City or the County of Ogemaw for a new building or structure, purpose, or location.
- 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 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 this Ordinance or a building code of the City or County of Ogemaw.

- e. 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 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, 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, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, 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 for other reason, is unsanitary or unfit for human habitation, is in a condition that the 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.
- 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, 1980 PA 299, being MCLA §§ 339.2401 to 339.2518, 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:
 - (1). A building or structure if the owner or agent does both of the following:
 - (A). Notifies the City Building Inspector or other individual appointed by the City Council to enforce this ordinance (hereinafter "Building Inspector") that the building or structure will remain unoccupied for a period of 180 consecutive days or longer. The notice shall be given to the Building Inspector by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - (B). Maintains the exterior of the building or structure and adjoining grounds in accordance with this act or a building code of the City or County of Ogemaw.
 - (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 City Building Inspector

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 Building Inspector not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling, including, but not limited to, 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 III.

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. Any dangerous building shall be deemed a nuisance *per se*.

SECTION IV.

Notwithstanding any other provision of this ordinance, if a building or structure is found to be a dangerous building as defined herein, the City Building Inspector or other individual appointed by the City Council to enforce this Ordinance (hereinafter "Building Inspector") shall issue a notice that the building or structure is a dangerous building.

- a. Persons who may be served notice. The notice shall be served on the owner, agent, or lessee that is the registered owner/occupant of the premises as disclosed upon the City's last local tax assessment records.
- b. 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.
- c. Hearing officer; filing of notice with officer. The hearing officer shall be appointed by, and to serve at the pleasure of, the Rose City Council. The hearing officer shall be a person who has knowledge in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. The Building Inspector issuing the Notice shall not be appointed as hearing officer. The Building Inspector shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.
- d. 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 10 days before the date of the hearing included in the notice. In the event the person to whom the notice is directed shall refuse to accept delivery of the certified mailing, then the notice may be mailed via certified mail without the necessity of a return receipt signed by said person.

SECTION V.

- a. Hearing. At a hearing prescribed by the foregoing section, the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than 5 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. Findings – Order. If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under Section II j., 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. 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 IV d., above.

SECTION VI.

- a. Failure to Appear or Comply with Order. If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under Section V b., above, the hearing officer shall file a report of the findings and a copy of the order with the Rose City Council not more than 5 days after the date for compliance set in the order, and request that necessary action be taken to enforce the order.
- b. Hearing by Council. The Council shall set a date not less than 30 days after the hearing prescribed in Section V., above, for a hearing on the findings and order of the hearing officer. The Council shall give notice to the owner, agent, or lessee in the manner prescribed in Section IV d. 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 Council shall either approve, disapprove, or modify the order. If the Council approves or modifies the order, the Council 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 30 days after the date of the hearing under this subsection. For an order of demolition, if the Council 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 subsection. 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.

The decision of the Council shall be final.

SECTION VII.

- a. 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 Ogemaw County register of deeds, demolition and dumping charges, court reporter attendance fees, attorney fees and costs of the collection of the charges and/or pursuit of processes and remedies authorized under this Ordinance. 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 Ordinance shall be reimbursed to the City by the owner or party in interest in whose name the property appears.
- b. Responsibility for Costs – Lien. 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 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 City shall have a lien for the cost incurred by the City 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. 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, 1893 PA 206, being MCLA §§ 211.1 to 211.157.

SECTION VIII.

An owner or party in interest aggrieved by any final decision of the Rose City Council may appeal the decision or order to the Circuit Court for the County of Ogemaw by filing a Claim of Appeal within twenty-one (21) days from the date of such final decision.

SECTION IX.

In addition to other remedies under this act, the City may bring an action against the owner and/or occupant 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, or for an injunction to abate the dangerous building as a nuisance *per se* and/or to compel the owner to so demolish, make the building safe, or to maintain the exterior of the building or structure or grounds adjoining the building or structure in order to attain compliance with this Ordinance. The City shall have a lien on the property for the amount of a judgment obtained under this subsection, as well as for its actual costs and attorneys fees incurred incident to any such action or proceeding.

SECTION X

This Ordinance repeals all ordinances or parts of ordinances in conflict therewith.

SECTION XI.

If any part, sentence, paragraph, section, or clause of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity thereof shall not affect the constitutionality or validity of any remaining provisions of this Ordinance.

SECTION XII

This Ordinance shall take effect on the ____ day of _____, 2008.

Following a public reading of the Ordinance, and at a regular meeting of the City Council of the City of Rose City held on the ____ day of _____, 2008, adopting of the foregoing Ordinance was moved by _____ and supported by _____.

Yes:

No:

The Mayor and Council declared the Ordinance adopted.

William Schneider, Mayor

Cindy Wiltse, Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. _____ which was enacted by the City Council of the City of Rose City at a regular meeting held on the ____ day of _____, 2008.

Cindy Wiltse, Clerk