

**WHITEWATER TOWNSHIP
ORDINANCE NUMBER 49
ABANDONED BUILDINGS ORDINANCE**

An ordinance to promote the health, safety, and welfare of the people of Whitewater Township, Grand Traverse County, Michigan, by regulating the maintenance and safety of certain buildings and structures; defining the classes of buildings and structures regulated by this Ordinance; describing and establishing procedures for the maintenance or demolition of certain buildings and structures; establishing remedies, providing for enforcement, and fixing penalties for the violation of this Ordinance; and repealing all ordinances or parts of ordinances in conflict with this Ordinance.

THE TOWNSHIP OF WHITEWATER ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known and cited as the Whitewater Township Abandoned Buildings Ordinance.

SECTION 2: DEFINITION OF TERMS. As used in this Ordinance, including in this section, the following words and terms shall have the meanings stated herein:

- A. “*Abandoned Building*” means any building or structure, residential or otherwise, that has not been occupied for a period of more than one hundred and eighty (180) days and has one or more of the following defects or is in one or more of the following conditions:
1. 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 fire, wind, flood, or other cause and does not meet the minimum requirements of the Housing Law of Michigan, Public Act 167 of 1917, as amended, MCL 125.401 *et. seq.*, or the applicable Building Code for a new building or structure, purpose, or location.
 2. A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.
 3. A portion of the building or structure has settled to such an extent that a wall, walls, or other structural portion or portions of the building or structure has or have materially less resistance to wind than is required in the case of new construction by the Housing Law of Michigan, Public Act 167 of 1917, as amended, MCL 125.401, *et. seq.*, or the applicable Building Code.
 4. 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.

5. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used or intended to be used.
 6. 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 unlawful or immoral act.
 7. 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 Enforcing Agency or County Public Health Officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of the people living in the dwelling.
 8. A building or structure is vacant, dilapidated, and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance to trespassers.
 9. In making an initial determination whether a building or structure is an Abandoned Building as defined herein, the Enforcing Agency may consult with and seek the assistance of the Grand Traverse County Construction Codes Office.
 10. The Owner of an Abandoned Building may apply to the Enforcing Agency for an exemption from the terms of this Ordinance by submitting a sufficient plan to rebuild or secure the Abandoned Building and by promptly implementing that plan in a manner that is approved by the Enforcing Agency.
- B. “*Enforcing agency*” means the Whitewater Township Zoning Administrator and/or such other official(s) or agency as may be designated by the Whitewater Township Board to enforce this Ordinance.
- C. “*Applicable Building Code*” means the building code administered and enforced in Whitewater Township pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, MCL 125.1501, *et. seq.*, or adopted pursuant to any other state law.
- D. “*Secured Building*” shall mean a building or structure that is secured in a manner acceptable to the Township to prevent ingress to and further deterioration of the building or structure.

SECTION 3: PROHIBITION OF ABANDONED BUILDINGS. It is unlawful for any owner or agent of a building or structure to keep, possess, own, or maintain any building or structure or part thereof that is an Abandoned Building as defined this Ordinance.

SECTION 4: NOTICE OF ABANDONED BUILDING; HEARING.

- A. Notice Requirements. Notwithstanding any other provision of this Ordinance, if a building or structure is found to be an Abandoned Building, the Enforcing Agency shall issue a notice that the building or structure is an Abandoned Building.
- B. Parties Entitled to Notice. The notice shall be served on each owner of, or party in interest to, the building or structure as determined by the name(s) listed for the property on the last local tax assessment records of Whitewater Township.
- C. Contents of Notice. The notice shall specify the time and place of a hearing on whether the building or structure is an Abandoned 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, or 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 as indicated in the notice.

SECTION 5: ABANDONED BUILDING HEARING OFFICER; DUTIES; HEARING; ORDER.

- A. Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Whitewater 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, attorney, 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 Abandoned Building Notice with Hearing Officer. The Enforcing Agency shall file a copy of the notice of the condition of any Abandoned 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 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.

- 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 or structure is an Abandoned Building under this Ordinance, the order may require the owner or agent to maintain the building or structure as a Secured Building.
- E. Noncompliance with Hearing Officer Order; Request to Enforce Order. If the owner, agent, or lessee fails to appear at the hearing or refuses to comply with the order issued by the Hearing Officer under this Ordinance, the Hearing Officer shall file a report of the findings and a copy of the order with the Whitewater Township Board not more than 5 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 WHITEWATER TOWNSHIP BOARD. The Whitewater 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 Whitewater Township Board shall approve, disapprove, or modify the order. If the Whitewater Township Board approves or modifies the order, the 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. Provided, however, that in the case of an order of demolition, if the Whitewater 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 in 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 Whitewater Township Board, the Board may, in its discretion, contract for the demolition of the building or structure, making safe the building or structure, 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 or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by Whitewater Township to bring the property into conformance with this Ordinance shall be reimbursed to Whitewater Township by the

owner or party in interest in whose name the property appears on the last local tax assessment records.

- C. Notice of Costs. The owner or party in interest in whose name the property appears on the last local tax assessment records shall be notified by the Enforcing Agency of the amount of 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, by first class mail at the address shown on Whitewater Township's 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 Enforcing Agency of the notice of the amount of the cost, in the case of a single-family dwelling or a two-family dwelling, Whitewater Township shall have a lien for the costs incurred by Whitewater 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, Public Act 206 of 1893, as amended, MCL 211.1, *et. seq.*
- E. Court Judgment for Unpaid Costs. In addition to other remedies under this Ordinance, Whitewater Township may bring an action against the owner of the building or structure for the full cost 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.
- F. Enforcement of Judgment. A judgment in an action brought pursuant to Section 7(E) of this Ordinance may be enforced against any assets of the owner including, but not limited to, the building or structure and the land on which it is located or other real or personal property of the owner.
- G. Lien for Judgment Amount. In the case of a single-family dwelling or a two-family dwelling, Whitewater 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 the State of Michigan 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: CIVIL INFRACTION AND REMEDIES FOR NONCONFORMANCE WITH ORDER. Any person or other entity who fails or refuses to comply with an order approved or modified by the Whitewater Township Board under Section 6 within the time prescribed by that section is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than \$500.00, plus costs, that may include all direct or indirect expenses to which Whitewater Township has incurred 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: APPEAL OF TOWNSHIP BOARD DECISION. An owner aggrieved by any final decision or order of the Whitewater Township Board under Section 6 of this Ordinance may appeal the decision or order to the circuit court within 20 days from the date of the decision or order of the Whitewater Township Board.

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 provision of the applicable Building Code (or maintenance, electric, plumbing, or similar code) or Zoning Ordinance.

SECTION 12: EFFECTIVE DATE. This Ordinance shall take effect 30 days after publication as required by law.

PROCEEDINGS OF THE WHITEWATER TOWNSHIP BOARD:

The above ordinance was offered for enactment by _____ and was supported by _____ at a regular meeting of the Whitewater Township Board, held at the Whitewater Township Hall, on the _____ day of _____, 2012, at _____ p.m., the vote being as follows:

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Larry Lake, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Whitewater Township Board at a meeting held on _____, 2012, pursuant to the procedures required by law.

Carol Hockin
Whitewater Township Clerk