



CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 82-B of the Troy City Code
Dangerous Buildings Ordinance

Background:

- With the adoption of the new Property Maintenance Code the current provisions of the Dangerous Buildings Ordinance will no longer be necessary.
- Dangerous Buildings will be covered by Section 108 of the Property Maintenance Code.
- We have attached the current text of the Dangerous Buildings Ordinance showing the language that is proposed to be deleted.
- This action should only be taken after the adoption of the new Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to delete the Dangerous Buildings Ordinance under the Housing Laws of the State of Michigan, the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- Once the new Property Maintenance Code is adopted the existing text of the Dangerous Buildings Ordinance can be deleted.
- Council can retain the existing text of the Dangerous Buildings Ordinance.
- Council can adopt revised text of the Dangerous Buildings Ordinance.

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

mss/ Chapter 82B revision memo 10-5-09

The text of Chapter 82-B, Dangerous Buildings shall be amended by deleting the Chapter in its entirety.

~~DANGEROUS BUILDINGS~~

~~1. Purpose and Reference to State Act~~

~~The procedures set forth in this Chapter are established in the public interest, to secure the health and safety of the occupants of dwellings, structures, and the general public.~~

~~This Chapter is enacted pursuant to the Housing Law of Michigan, found at Michigan Compiled Laws §125.401 et. seq., and is to be construed in conjunction therewith and interpreted to comply with the language of said law and any subsequent amendments.~~

~~2. Designation of Enforcement Body~~

~~The Director of Building and Zoning, his authorized representatives and employees, shall enforce the provisions of this Chapter, and shall have jurisdiction to establish the inspection and violation procedures to implement said enforcement.~~

~~3. Joint Implementation~~

~~This Chapter may be enforced by any other governmental agency by joint agreement where joint enforcement is practicable.~~

~~4. Dangerous Building, Prohibition.~~

~~It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof which is a dangerous building as defined in Section 5 (3).~~

~~5. Definitions.~~

~~(1) "City Council" shall mean the legislative body to hear appeals at the local level.~~

~~(2) "Owner" means any person, firm, partnership, association or corporation and/or their legal successors. All proceedings, actions, or prosecutions hereunder in which the owner of any building, structure, or part thereof, shall be subject to the provisions of this ordinance.~~

~~(3) "Dangerous Building" means a building or structure which 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 approved fire code of the City of Troy.~~

~~(b) A portion of the building is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the City of Troy ordinances.~~

~~(c) A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the City of Troy ordinances.~~

~~(4-17-00)~~

~~(d) The building or structure or 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 support or for other~~

~~reason, is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.~~

- ~~(e) — The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used.~~
- ~~(f) — The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers or otherwise 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.~~
- ~~(g) — A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation, due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise is in a condition that the Director of Building and Zoning or his authorized representatives or employees determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in the residence.~~
- ~~(h) — An owner has been previously notified of existing code violation(s), according to the provisions of this Chapter and after said notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days, then the structure shall be declared a dangerous building.~~

~~3. Notice of Dangerous and Unsafe Condition, Issuance, Recipient, Contents, Filing, Form, Service; City Council~~

- ~~(1) — When the whole or any part of any building or structure is found to be in a dangerous building the Director of Building and Zoning or his authorized representatives or employees shall issue a notice declaring that the building or structure is a dangerous building. The notice shall itemize the current code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish the building or structure.~~
- ~~(2) — The notice shall be served on the owner of record or the registered agent and upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner or holder of an encumbrance of record cannot be found, the notice may be served by posting it on the main entrance of the building and publishing it once a week for three (3) successive weeks in a newspaper authorized to provide service by publication.~~
- ~~(3) — The notice shall specify the right of the owner to appeal to City Council the dangerous building determination of the Director of Building and Zoning or his authorized representatives or employees. The notice shall also set forth the administrative appeal procedure, including the requirement that any appeal under this section shall be filed in writing to the Director of Building and Zoning or his authorized representatives or employees within ten days of service of the notice.~~

~~(4-17-00) _____~~

~~4. Waiver of Hearing; Testimony; Determination to Close Proceedings or Order Building Demolished or Made Safe, Compliance, Hearing, Cost of Compliance As Lien Collection.~~

- ~~(1) — If a written appeal of the dangerous building determination is not received within ten days of the date of service of the notice, as described in section 3, then a public hearing~~

~~will not be necessary, and the matter shall be referred to the City Council for resolution.~~

- ~~(2) If a written appeal of the dangerous building determination is received within the allocated ten day period, then a public hearing will be scheduled before City Council as soon as administratively possible. At the public hearing, the City Council shall take the testimony from the Director of Building and Zoning and/or his authorized representatives and employees, testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous building pursuant to this Chapter.~~
- ~~(3) If it is determined by the City Council that the building or structure is a dangerous building and therefore should be demolished or made habitable, Council shall order the demolition or necessary repairs be completed. The repairs shall be ordered to be completed by a specified time, which shall not exceed 21 days after the hearing and/or the resolution.~~
- ~~(4) If the ordered demolition or repairs are not completed within the allocated time period, as set forth in section (3), City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the structure or any part of the structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~
- ~~(5) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the the cost of the necessiated repairs or demolition by first class mail at the address shown on the records. If the owner fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City of Troy, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessitated demolition and/or repair. If the City receives a favorable judgment, then said judgment may be assessed against all of the assets of the owner of the property, not just the real estate that is the subject of the dangerous building determination.~~

~~5. Appeal to Circuit Court.~~

~~An owner aggrieved by any final decision or order of the City Council, made pursuant to this Chapter, may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.~~

~~(4-17-00)~~

~~6. Emergency:~~

~~The Fire Chief or Director of Building and Zoning or his authorized representatives or employees shall have the power to abate any public nuisance from any dangerous structure or building if the public safety shall require immediate action due to a distinct hazard to life or property, without preliminary notice as otherwise required by this section. Thereafter the cost of abating such public nuisance shall be charged against the owner or occupant of the premises and payment hereof shall be enforced as a special assessment.~~

~~(4-17-00)~~

CITY OF TROY
AN ORDINANCE TO
AMEND CHAPTER 82-B
OF THE CODE OF THE
CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 82-B, Dangerous Buildings, of the Code of the City of Troy.

Section 2. Amendment

Chapter 82-B, Dangerous Buildings, shall be amended by deleting the Chapter in its entirety:

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, City Clerk