

ENSLEY TOWNSHIP

NEWAYGO COUNTY, MICHIGAN

(ORDINANCE NO. 2014-10)

DANGEROUS AND DILAPIDATED BUILDINGS AND RECREATIONAL VEHICLE ORDINANCE

An ordinance to promote the health, safety and welfare of the people of Ensley Township (“Township”), Newaygo County, Michigan, by regulating the maintenance, condition, and safety of certain buildings, structures, and recreational vehicles; to define the types of buildings, structures, and recreational vehicles regulated by this Ordinance; to establish procedures for the maintenance or demolition of certain buildings and structures and for the removal of certain recreational vehicles; to establish remedies, provide for enforcement, and to fix penalties for the violation of this Ordinance.

THE TOWNSHIP OF ENSLEY (“Township”) ORDAINS:

1. Title. This Ordinance shall be known and cited as the “Ensley Township Dangerous and Dilapidated Buildings and Recreational Vehicles Ordinance.”
2. Purpose. The purpose of this Ordinance is to regulate and prohibit the existence of dangerous and/or dilapidated buildings within Ensley Township, as well as unsafe, abandoned, or junk recreational vehicles. Furthermore, it is the intent and purpose of this Ordinance to promote the health, safety, and welfare of the people of Ensley Township by regulating the maintenance, condition, alteration, health, safety, and improvement of buildings, structures, and recreational vehicles and to establish remedies and provisions for the enforcement of this Ordinance.
3. Definitions of Terms. As used in this Ordinance, including in this section, the following words and terms shall have the meanings stated herein:
 - (a) “Building Code” means the building code (or other applicable code) administered and enforced within 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, or adopted pursuant to any other state law.

(b) “Dangerous building” means any building or structure, residential, commercial or otherwise, that has one or more of the following defects or conditions or is in one or more of the following conditions:

(i) A door, aisle, passageway, stairway or other means of exit that does not conform to the Township Fire Code, Township Building Code or other code enforced within the Township.

(ii) 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 Building Code enforced within the Township (or any other code enforced within the Township) for a new building or structure, purpose or location.

(iii) A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.

(iv) 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 Building Code enforced within the Township (or any other code enforced within the Township).

(v) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, fire damage, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for any 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.

(vi) The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is designed, used or intended to be used.

(vii) 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.

(viii) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, which because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is

in a condition that a Township official or the health officer of the Township or Newaygo 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.

(ix) A building or structure is vacant, dilapidated and open at the door, wall, roof, window, or other area, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(x) A building or structure remains unoccupied for 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, Act No. 299 of the Public Acts of 1980, being Section 339.2501 *et seq.* of the Michigan Compiled Laws, or is not publicly offered for sale by the owner. This subsection 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 in writing that the building or structure will remain unoccupied for period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied; and

(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 Building Code enforced within the Township (or other applicable code enforced within the Township).

(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 Township in writing 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 Township in writing 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, hunting cabin or summer home, that is occupied by the owner or a member of the owner's family during part of year.

(xi) Any portion of a building or structure is open to the elements or vermin (or other animals), whether such opening occurs due to a broken, missing, deteriorated, or dilapidated door, wall, roof, or other structural or exterior component of the building.

(xii) The exterior paint, vinyl or aluminum siding, brick, wood, or other exterior component of a building or structure is in such disrepair, a dilapidated fashion, or such poor condition that the exterior building materials of the building or structure involved are directly exposed to the elements, insects, mold, or fungus.

(xiii) A deck, porch, walkway, or similar structure or item attached to or serving a building or structure is slippery and is likely to cause a person to slip or fall due to moss, fungus, deterioration, slimy or slippery material, or similar slippery condition.

(c) “Enforcing agency” means Ensley Township, through the Township Building Official, Township Ordinance Enforcement Official, Zoning Administrator, and/or such other official(s) or agency as may be designated by the Township Board to enforce this Ordinance.

(d) “Owner” means any person, tenant, lessee, corporation, partnership, or entity which owns, coowns, or has an ownership or possessory interest in the property at issue.

(e) “Recreational Vehicle” means any camping trailer, travel trailer, motor home, motor vehicle with sleeping and cooking facilities, pop-up trailer, house trailer, watercraft or similar vehicle or item.

(f) “Township” means Ensley Township as well as its officials, officers, employees, agents and subdivisions.

4. Prohibition of Dangerous Buildings. It shall be unlawful for any owner or agent thereof to keep, possess, use, own, or maintain any building or part thereof which is a dangerous building as defined in this Ordinance.
5. Recreational Vehicles. No junk, abandoned, dilapidated, deteriorated, partially disassembled, or rundown recreational vehicle shall be kept, utilized, or stored outdoors. Such prohibition shall not apply to a lawful junkyard that fully complies with the Ensley Township Zoning Ordinance, as amended, and any and all other applicable Ensley Township ordinances.
6. Penalties for Violation of this Ordinance. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section,

“subsequent offense” means a violation of any of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

A violation of this Ordinance shall also be deemed a nuisance *per se*.

For purposes of being found responsible for a violation of this Ordinance (and for being subject to and bound by any penalties and court orders for violation of this Ordinance), the word “owner” shall include not only the person, partnership, corporation, or other entity shown as the owner as evidenced with the relevant real estate document recorded with the Newaygo County Register of Deeds records, but in addition, shall also include any owner or co-owner of the property (whether or not shown of record with the Newaygo County Register of Deeds records), and where a land contract is involved, shall apply to both the record owner of the property as well as the person or persons purchasing the property on land contract. This Ordinance shall also apply to any tenant or lessee of the property involved. Anyone who assists another in violating this Ordinance, or who aids and abets another in violation of this Ordinance, shall also be deemed to be in violation of this Ordinance.

In addition to the other remedies mentioned above, upon a finding of responsibility for a civil infraction involving a building or structure, the Court may also issue an order requiring that the property or building involved either be brought into full compliance with this Ordinance (as well as the Building Code and any other applicable ordinances or codes) or alternately, that the owner of the property completely demolish or remove the building or structure involved within a reasonable period of time. Such a court order may also provide that if securing of the building or demolition and/or removal of a building or structure is ordered (or some other action is required to be taken by the property owner) and the property owner does not fully comply with the order, the Township shall be authorized to enter the property involved and remove, secure, or fully repair the dwelling or structure involved (or bring the property into full compliance with the court order) and that the Township shall be fully reimbursed for all of its costs and expenses, with the same being secured by a lien or one lot special assessment on the property.

In addition to the other remedies mentioned above, upon a finding of responsibility for a civil infraction involving a recreational vehicle, the Court may also issue an order requiring the recreational vehicle to be removed from the lot or parcel involved and be lawfully disposed of off site. Such a court order may also provide that if such removal and disposal of a recreational vehicle does not occur, the Township shall be authorized to enter the property involved and to remove and lawfully dispose of the recreational vehicle off site and that the Township shall be fully reimbursed for all of its costs and expenses thereof, with the same being secured by a lien or one lot special assessment on the property involved.

In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Ordinance in the Newaygo County Circuit Court (or equivalent court).

This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Ordinance Enforcement Officer, and such other Township official or agent as the Township Board may designate from time to time by resolution.

7. Exemption for Bona Fide Farm Buildings. This Ordinance shall not apply to any nondwelling building which is actively and regularly used or maintained in conjunction with a bona fide ongoing farming operation.
8. 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 this Ordinance which shall continue in full force and effect.
9. Repealer. When this Ordinance becomes effective, it shall repeal Ensley Township Ordinance No. 06-2 (entitled “Ensley Township Dangerous Building Ordinance”) in its entirety.
10. Effective Date. This Ordinance shall take effect upon the expiration of thirty (30) days after publication as required by law.

The above Ordinance was offered for enactment by Township Board Member Starr and was supported by Township Board Member Harwood at a regular meeting of the Township Board of the Township of Ensley, held at the Ensley Township Hall, on the ____ day of October 7, 2014, at 7:30 p.m., the vote being as follows:

YEAS: Bird, Folkema, Harwood, Starr and Butler

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Ensley at a regular meeting held on October 7, 2014, pursuant to the procedures required by law.

Cynthia Harwood
Ensley Township Clerk