

ORDINANCE NO. 2021 - 01

**CITY OF ST. CLAIR
COUNTY OF ST. CLAIR, MICHIGAN**

AN ORDINANCE OF THE CITY OF ST. CLAIR, ST. CLAIR COUNTY, MICHIGAN TO AMEND CHAPTER 14 “BUILDINGS AND BUILDING REGULATIONS,” ARTICLE VII “DANGEROUS BUILDINGS” BY REVISING IT IN ITS ENTIRETY.

THE CITY OF ST. CLAIR ORDAINS:

SECTION 1. AMENDMENT.

Chapter 14, Article VII of the City Code of Ordinances is hereby amended to read as follows:

ARTICLE VII. - DANGEROUS BUILDINGS

Sec. 14-181. - Defined.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous building means a building or structure that has or is in one or more of the following defects or conditions:

- (1) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the city.
- (2) 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 the single state construction 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 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 single state construction code.
- (5) 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.

(6) The building, 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, 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.

(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 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.

(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 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, Public Act No. 299 of 1980 (MCL 339.2401 et seq.). For purposes of this section, the term "building" or "structure" includes, but is not limited to, a commercial building or structure. This section does not apply to either of the following:

a. A building or structure if the owner or agent does both of the following:

1. Notifies the police department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the police department 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 the single state construction code.

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 police department 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 section shall notify the police department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, the term "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.

State Law reference— Similar definition, MCL Section 125.539.

Sec. 14-182. - Dangerous building prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in section 14-181.

State Law reference— Similar provisions, MCL Section 125.538.

Sec. 14-183. - Notice of dangerous building; contents; hearing officer; service.

- (1) Notwithstanding any other provision of this article, if a building or structure is found to be a dangerous building, the building official or code enforcement officer shall issue a notice that the building or structure is a dangerous building.
- (2) The notice shall be served on the owner, agent, or lessee in whose name the property appears on the last local tax assessment records.
- (3) 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.
- (4) A hearing officer shall be appointed and serve at the pleasure of City Council. The hearing officer shall be a person who has expertise in housing matters, including, but not limited to, an attorney, engineer, architect, building contractor, building inspector, or member of a community housing organization, but may not be an employee of the City. The hearing officer shall preside over the hearings required by section 183(3), but shall not have a vote on the matter.
- (5) 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 ten (10) days before the date of the hearing included in the notice.

State Law reference— Similar provisions, MCL Section 125.540.

Sec. 14-184. - Powers and duties of the building official and code enforcement officer.

The building official and code enforcement officer may:

- (1) Make inspection or seek an administrative search warrant to cause to be inspected all buildings and structures for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of section 181 of this article.
- (2) Make inspection of, or cause to be inspected annually, each and every structure and the premises connected therewith, and make inspections of or cause to be inspected other buildings at such intervals as may be necessary, and where such inspections are denied in violation of this section, may seek an administrative search warrant to cause such inspections to occur.

- (3) Report in writing to the dangerous buildings commission any dangerous building within the standards set forth in section 181. Such report shall include:
 - a. The name of the owner, his agent, and all other persons having an interest in such building as shown by the latest city tax assessment roll, and by the possession of the premises in question;
 - b. The legal description of the premises, a description of the building or structure deemed unsafe, and a statement of the particulars which make the building or structure a dangerous building; and
 - c. A recommendation that such building be repaired, vacated or demolished.
- (4) Appear at all hearings conducted by the dangerous buildings commission and testify as to the condition of the property underlying their investigation.
- (5) Post such notices as the dangerous buildings commission may direct.

Sec. 14-185. – Dangerous buildings commission; establishment; appointment and terms of members; vacancy; meetings; writings.

- (1) The city council shall establish a dangerous buildings commission to conduct the hearings required by section 183(3).
- (2) The dangerous buildings commission shall total five (5) members appointed by the city council, exclusive of the hearing officer who is the presiding official.
- (3) Members of the dangerous buildings commission shall be appointed for three years, except that of the members first appointed, two members shall serve for one year, two members shall serve for two years, and one member shall serve for three years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.
- (4) A majority of the dangerous buildings commission appointed and serving constitutes a quorum. Final action of the dangerous buildings commission shall be only by affirmative vote of a majority of the board members appointed and serving.
- (5) A meeting of the dangerous buildings commission shall be held pursuant to the open meetings act, Public Act No. 267 of 1976 (MCL Section 15.261 *et seq.*). Public notice of the time, date, and place of the meeting shall be given in the manner required by such act.
- (6) A writing prepared, owned, used, in the possession of, or retained by the dangerous buildings commission in the performance of an official function shall be made available to the public pursuant to the freedom of information act, Public Act No. 442 of 1976 (MCL Section 15.231 *et seq.*).

State Law reference— Similar provisions, MCL Section 125.541c.

Sec. 14-186. – Dangerous buildings commission; hearing; testimony; determination to close proceedings or order building or structure demolished, made safe, or properly maintained; failure to appear or noncompliance with order; hearing; enforcement; reimbursement and notice of cost; lien; remedies.

(1) At a hearing prescribed by section 183, the dangerous buildings commission shall take the testimony of the City administration's witnesses, the owner of the property, and any interested party. The dangerous buildings commission shall render a decision on the matter at the conclusion of the proofs. If the dangerous buildings commission 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.

(2) Not more than five days after completion of the hearing, the hearing officer shall reduce to writing both the dangerous buildings commission's order and the findings of fact on which it is based, and shall serve it on the administration electronically and on the owner of the property by first-class mail.

(3) If the property owner is non-compliant with an order entered pursuant to section 186(1), the hearing officer shall notify City Council with seven (7) days of said noncompliance, providing City Council a copy of the order and an explanation of the nature of the property owner's non-compliance.

(4) The city council shall set a date not less than thirty (30) days after the notice received pursuant to section 186(3) for a hearing on the findings and order of the dangerous buildings commission. The city council shall give notice to the owner, agent, or lessee as to the time and place of the hearing by first-class mail. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The city council shall either approve, disapprove, or modify the order. If the city council approves or modifies the order, it shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with it within sixty (60) days after the date of the hearing under this subsection.

(5) The cost of demolition includes, but is not limited to costs associated with the conduct of the hearing required by section 181(3). 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 article shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

(6) 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 thirty (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 article pursuant to section 46-28. 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 cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Public Act No. 206 of 1893 (MCL Section 211.1 et seq.).

(7) In addition to other remedies under this article, the city 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. The city shall have a lien on the property for the amount of a judgment obtained under this subsection pursuant to section 46-28. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

State Law reference— Similar provisions, MCL Section 125.541.

Sec. 14-187. - Appeal to circuit court.

An owner aggrieved by a final decision or order of the city council under section 14186(4) may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty-one (21) days from the date of the decision.

State Law reference— Similar provisions, MCL Section 125.542.

Secs. 14-188—14-210. - Reserved.

SECTION 2. SEVERABILITY.

This Ordinance and each of the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable by a court of competent jurisdiction, it is hereby provided that the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 3. REPEAL OF ORDINANCES IN CONFLICT HEREWITH.

Any and all Ordinances of the City of St. Clair or any parts or provisions thereof, to the extent that they are contrary to or inconsistent with the provisions of the within Ordinance, are hereby expressly repealed.

SECTION 4. RATIFICATION.

All other provisions of the code of Ordinances of the City of St. Clair, Michigan except as herein modified or amended are hereby expressly ratified and affirmed.

SECTION 5. PUBLICATION.

This Ordinance shall be published in accordance with the terms, provisions, and requirements of the City Charter of the city of St. Clair, Michigan, and in accordance with and to the extent required by the statutes of the State of Michigan.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take immediate effect upon publication in accordance with the provisions and requirements of the City Charter of the City of St. Clair.

ORDINANCE DECLARED ADOPTED.

William Cedar, Jr., Mayor
City of St. Clair, Michigan

CERTIFICATION

The foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of St. Clair, County of St. Clair, State of Michigan, at a regular meeting of the City Council held on the 15th day of February, 2021, and public notice of said meeting was given pursuant to and in accordance with the requirements of Act No. 267 of the Public Acts of 1976, as amended, being the Open Meetings Act, and the minutes of said meeting have been or will be made available as required by said Act.

Members Present: Cedar, Kindsvater, Klieman, Kuffa, LaPorte, McCartney, Volz
Members Absent: None

It was moved by Member McCartney and supported by Member Volz to adopt the Ordinance.

Members voting yes: Klieman, Kuffa, LaPorte, McCartney, Volz, Kindsvater, Cedar
Members voting no: None

The Ordinance was declared adopted by the Mayor and has been recorded in the Ordinance Book of the City of St. Clair.

Annette Sturdy, City Clerk
City of St. Clair, Michigan

INTRODUCED: February 1, 2021
ADOPTED: February 15, 2021
PUBLISHED: February 18, 2021
EFFECTIVE: February 18, 2021