

DANGEROUS BUILDINGS BOARD

**CITY OF KALAMAZOO, MICHIGAN
ORDINANCE NO. 1625
as amended by ORDINANCE NO. 1644
as amended by ORDINANCE NO. 1711**

**AN ORDINANCE TO AMEND SECTIONS 9-314 THROUGH 9-324 FOUND WITHIN ARTICLE VII,
DANGEROUS BUILDINGS/RECEIVERSHIP, OF THE KALAMAZOO CITY CODE OF ORDINANCES**

Sec. 9-326. Definitions.

- (a) Generally. As used in this article, words and terms shall have the meanings ascribed to them in the building code adopted by Section 9-22 and in Chapter 17 of this Code, unless indicated to the contrary.
- (b) Board. As used in this article, the term "Board" shall mean the Dangerous Building Board as described in Sec. 9-327.
- (c) Dangerous Building. As used in this article, the term "dangerous building" shall mean any building or structure which, because of one or more violations of Chapter 9 Building Regulations and/or Chapter 17, Housing Code of the City of Kalamazoo Code of Ordinances, is unsafe for occupancy or to the general public, or is a visual blight adversely affecting the general welfare of the area.

Sec. 9-327. Dangerous Building Board.

- (a) For the purpose of carrying out the provisions of this article, a Dangerous Building Board shall be created, the seven members of which shall be appointed by the city commission; said Board shall consist of the following persons:
 - 1. One person who shall be a residential builder, licensed by the state;
 - 2. One person who shall be an architect or engineer, registered in the state;
 - 3. One person who shall be a real estate broker, licensed in the state (amended by Ordinance No. 1644, adopted 12/01/97; Ordinance No. 1711, adopted 01/08/01);
 - 4. One person who shall be the representative of the general contracting business with experience in non-residential building construction;
 - 5. One person who shall be an owner of residential property existing within the city;
 - 6. One person who shall be an owner of property located in a historic district within the city; and,
 - 7. One person who shall be a real estate appraiser licensed by the state, or who shall otherwise satisfy any one of the above categories (amended by Ordinance No. 1644, adopted 12/01/97; Ordinance No. 1711, adopted 01/08/01).

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- (b) The City Fire Marshall and the Historic Preservation Coordinator shall be ex-officio members of the board with no voting power.
- (c) The Board members shall be residents of the City of Kalamazoo or owners or employees of a business which is located in the City of Kalamazoo.
- (d) Appointments of said Board members shall be for a three (3) year term except that the initial appointments shall provide for three (3) three-year terms, two (2) two-year terms and two (2) one-year terms so that subsequent appointments shall not occur at the same time.
- (e) The Board shall elect from its membership a chair and such other officers as it deems advisable. The terms of the officers shall be for one year and they shall be eligible for reelection. The recording secretary will be furnished by the City to receive and distribute all meeting minutes and to perform other relevant functions.
- (f) A majority of the members of the Board shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters.
- (g) The Board shall propose rules of procedure for approval by the City Commission.
- (h) All meetings of the Board shall be open to the public.

Sec. 9-328. Maintenance prohibited.

It shall be unlawful for any owner or his or her agent to keep or maintain any dangerous building within the city.

Section 9-329. Notice of Determination; other remedies.

- (a) When a building is determined by a building official to be a dangerous building, the building official may:
 - 1. Issue a notice of such determination by mailing same, by first class mail to the owner of the building; such a notice shall be mailed by first class mail to the owner of the building as well as to any agent, lessee or land contract vendee of record of whom the city has actual knowledge, and/or
 - 2. Issue an appearance ticket charging the property's owner or agent with a violation of Chapter 9 or Chapter 17 of this code.
- (b) If a notice of determination is issued, it shall identify the property at issue and shall contain the following provisions:
 - 1. A description of the conditions of the building which cause it to be a dangerous building and which require repair (hereinafter "dangerous conditions");
 - 2. An indication if permits for performance of work to repair the conditions are necessary;

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3. A deadline by which the city must receive a written commitment to perform the necessary repairs; and
4. A deadline for the repair of the dangerous building conditions;
5. An indication that if either of the deadlines mentioned above is not complied with the building official may request that the Dangerous Building Board order that the property be razed or repaired.

Section 9-330. Request for Hearing.

- (a) Any owner who has received such a notice of determination may file a written request for a de novo hearing with the Dangerous Building Board asking that the Board:
 1. Extend the deadline to perform the required repairs or, in the event the building official desires the property to be razed, allow the owner a reasonable time to repair the dangerous conditions;
 2. Determine that the building is not, in fact, a dangerous building;
 3. Modify or delete (but not add to) some or all of the required repairs on the grounds that said repairs are unnecessary or excessive; and/or
 4. Determine that any aspect of the notice sent by the building official is in error, illegal, or unauthorized.
- (b) If the building official is not satisfied with the response (if any) to the Notice of Determination he/she previously sent, the building official may file a written request for a de novo hearing with the Dangerous Building Board (even if the owner has also made such a request); said request shall ask the Board to order that the building be razed or that the dangerous conditions be repaired, either by the owner or by the City (or the City's designee).
- (c) An owner may not file a written request for a hearing before the Dangerous Building Board more than ten (10) days after the City mails to said owner notice of the fact that the building official has requested a hearing.
- (d) Upon receipt of either of such requests, the City shall schedule a hearing with the Board and shall notify the owner (by first class mail) of the time and place of said hearing.
- (e) In the event the board grants the relief described in subparagraph (a)1 immediately above (regarding repairs) or orders the owner to repair the dangerous conditions (as provided in subparagraph (b) immediately above) and if said action does not resolve the situation, another hearing may be requested of the dangerous building board by either the owner (pursuant to subparagraph (a) above or by the building official (pursuant to subparagraph (b) above).

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Sec. 9-331. Hearing.

- (a) At the time and place provided in the above-referenced notice, the Board shall conduct the hearing requested by the owner and/or the building official. The Rules of Evidence shall be followed as far as practicable but the Board may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of the facts within the general knowledge of the community. The owner shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues. The Board shall ensure that the entire hearing is recorded.

- (b) Within thirty (30) days after said hearing, the Board shall prepare its written decision and mail same, by first class mail, to the owner; said decision shall be supported by specific findings of fact and shall state:
 - 1. That the relief sought, if any, by the owner is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - 2. That the relief sought, if any, by the building official is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - 3. That the owner is to be allowed a specified and reasonable time during which to repair the dangerous conditions, including any reasonable terms and conditions and the reasons explaining the decision; and/or
 - 4. That the hearing is adjourned to a later time so that specified additional information can be obtained by either the owner, the City or both and presented to the Board.

- (c) If the Board's decision is that the dangerous conditions should be repaired by the City or its designee, said decision shall provide a complete list of all repairs necessary to eliminate the dangerous conditions, along with an estimated cost to complete said repairs.

Section 9-332. Appeal.

An owner aggrieved by any final decision of the Board under section 9-331 may file a petition for an order of superintending control with the Kalamazoo County Circuit Court so long as said petition is filed within twenty (20) days from the date of the mailing of the Board's decision to the owner.

Sec. 9-333. Placarding and vacating; abatement of rent.

- (a) If the Board determines that a building is a dangerous building and that it should be razed or repaired and no petition is filed within the time prescribed by section 9-332 (or such a petition is filed but denied) the building official shall post, in a conspicuous place on the dangerous building, a placard describing the Dangerous Building Board's ordered action. No person, other than the building official, shall deface or remove said placard.

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- (b) A dangerous building which has been placarded under this section shall be vacated by all occupants within a reasonable time, as required by the building official. No owner or operator shall let to any person for human occupancy and no person shall occupy nor permit anyone to occupy such dangerous building which has been placarded by the building official after the date on which the building official has required such building to be vacated, until written approval is secured from, and such placard is removed by, the building official. The building official shall remove such placard upon the REPAIR of the dangerous conditions upon which the Board's decision was based.
- (c) If, pursuant to the provisions of this section, a dangerous building has been ordered vacated by the building official and there is no compliance with the order in the time specified, the building official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate the dangerous building forthwith.
- (d) If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

Sec. 9-334. Raze or repair.

- (a) If the Board's decision is to have the City raze or repair the building, the City, at its sole election, may thereafter either:
 - 1. Assume the responsibility of performing the ordered task by use of City employees or by directly contracting with others for all or some of said task; or
 - 2. Assign the performance of the ordered task, by contract, to a receiver, which shall thereafter assume the responsibility to perform, at its own expense, said task (by either its own employees or those with whom said receiver contracts).
- (b) If the City elects to perform the ordered task, the sum which it may thereafter seek to recover from the owner shall include all costs incurred in the effort (including reasonable administrative costs and expenses) but in no event shall said sum be more than the amount of the Board's estimated cost, plus 10%.
- (c) If the City elects to contract with a receiver to perform the ordered task, the sum which the City may thereafter seek to recover from the owner shall be the lesser of the amount of the receiver's bid to the City or the amount of the Board's estimated cost, plus 10%.

Sec. 9-335. Receiver bids.

If the City elects to contract the responsibility for the raze or repair to a receiver, the City shall put the matter out for bid, pursuant to established City procedure.

Sec. 9-336. Receiver control.

If the City contracts with a receiver to perform the raze or repair, the receiver shall:

- 1. Be granted total control of the building and its premises to the extent necessary to cause the repairs to be performed; and
- 2. Keep complete records of all work performed (materials and services) on the building.

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Sec. 9-337. Receiver invoice.

Upon completion of the work required of the receiver by the contract, the receiver shall submit to the City a complete invoice listing all of the work performed and the cost (materials, supplies and services).

Sec. 9-338. Demand for payment.

- (a) Upon the completion of the raze or repair by either the City or the receiver, the City shall mail an invoice to the owner demanding payment by the owner of the cost incurred by the City or, if a receiver performs the ordered task, the amount of the receiver's bid to the City.
- (b) Said invoice shall state that the sum demanded must be paid within thirty (30) days and that if payment is not timely received:
 - 1. The sum shall thereafter accrue interest at the same rate of interest as established by City policy for past due accounts; and that
 - 2. The City may file a petition in Circuit Court, pursuant to Section 9-339.

Sec. 9-339. Petition for Payment.

- (a) If the sum demanded by the City from the property's owner is not timely paid, the City may file a petition with the Kalamazoo County Circuit Court, requesting that the Court:
 - 1. Determine the amount which is due to the City and/or the receiver from the owner;
 - 2. Order that said amount is a recordable lien against the property; said lien shall be superior to all other claims except liens filed prior to the date the City recorded its lis pendens;
 - 3. Specify a deadline (not to exceed 60 days) for the payment of said sum; and
 - 4. Enter a judgment of foreclosure authorizing the City, if the owner fails to pay as ordered, to conduct a foreclosure sale, the procedure for which shall conform, unless stated to the contrary herein, to that generally used for judgment executions.
- (b) The judgment of foreclosure shall state:
 - 1. The time, place and date for said sale, and
 - 2. A period of redemption, not to exceed 4 months.
- (c) If a foreclosure sale occurs and the owner thereafter fails to make the payment required by the Court during the period of redemption, the Court, upon the City's motion, shall:
 - 1. Enter an order of confirmation vesting in the name of the foreclosure sale's highest bidder all right, title and interest in the real property, free and clear of any claim by the owner;
 - 2. Enter an order directing distribution of all funds obtained from the foreclosure sale in accordance with the priorities of the parties and all lien holders of record, as determined by the court; and
 - 3. Order that any surplus from the foreclosure sale (after the payment to all others) be paid over to the owner of the property.

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Sec. 9-340. Purchase by Receiver.

The receiver may bid at the foreclosure sale; if its bid is the highest bid, the sum due to it (as determined by the Court) may be applied to said bid (so as to reduce the sum otherwise payable by the receiver).

Sec. 9-341. Recovery of Deficiency.

If the proceeds from a foreclosure sale are insufficient to pay the sum ordered by the court, the City may recover said deficiency:

1. By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
2. By petitioning the court, in the foreclosure action, for the entry of a civil money judgment.

Sec. 9-342. Alternative Means of Recovery.

If the sum demanded by the City from the property's owner is not timely paid and the City elects not to pursue a foreclosure sale, the City may recover said sum:

1. By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
2. By filing suit in the appropriate court requesting the entry of a civil money judgment.

Sec. 9-343. Lis Pendens.

After said repair efforts are commenced, the City may record a notice of lis pendens with respect to the future claim the City will assert (in its own name and/or on behalf of the receiver) for the costs of repairs performed on the building.

Sec. 9-344. Exercise of control.

From the time said repairs commence until the time the cost of said repairs are fully paid by the owner, the owner shall exercise no control over the building nor occupy nor cause or allow another to occupy said building.

Sec. 9-345

- (a) The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken by the Building Official and/or the Dangerous Building board in enforcing the terms of Sections 9-314 and through 9-345 (created by Ordinance No. 1644, adopted 12/01/97).
- (b) The means of recovering costs set forth in Section 9-338 through 9-345, shall also apply to the recovery of said costs of actions (created by Ordinance No. 1644, adopted 12/01/997).

History:

Effective January 1, 1997, Ordinance No. 1625, adopted November 4, 1996, repealed Sections 9-314 through 9-325 of the Kalamazoo City Code and were replaced with Sections 9-326 through 9-344.

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On December 1, 1997, Ordinance No. 1644 was adopted, which amended Section 9-327 (a) of Article VII of the Code of Ordinances, subparagraphs 1 and 4; and, created Section 9-345 of Article VII.

On January 8, 2001, Ordinance No. 1711 was adopted, which amended Section 9-327 (a) of Article VII of the Code of Ordinances, subparagraphs 1-7.

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RULES OF PROCEDURE KALAMAZOO DANGEROUS BUILDINGS BOARD ADOPTED IN ACCORDANCE WITH SECTION 9-327(g) OF THE CODE OF ORDINANCES, OF THE CITY OF KALAMAZOO

Article I - Officers

Section 1.0 Officers: The officers of the City of Kalamazoo Dangerous Buildings Board shall consist of a Chairperson and Vice-Chairperson, elected by the Board at its Annual Meeting. Officers shall serve for a period of one year and may be reelected.

A representative of the Housing and Buildings Division shall serve as Recording Secretary of the Dangerous Building Board, but shall not have a vote in matters before the Board. In the event of the absence of the Recording Secretary from any meeting, the officer presiding shall designate an Acting Recording Secretary to serve for the meeting in question.

Section 1.1 Duties of Officers:

(a) Chairperson

- (1) To preside at all meetings of the Board
- (2) To call special meetings in accordance with these Rules of Procedure
- (3) To see that all actions of the Board are properly taken
- (4) To sign all documents and letters of the Board

(b) Vice-Chairperson

- (1) During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson

(c) Recording Secretary

- (1) To present to the Board all such business as shall properly and legally come before it
- (2) To inform the Board of all correspondence relating to business of the Board and to attend to such correspondence
- (3) To take and keep the minutes of all meetings of the Board, prepare decisions, obtain signatures of chair and mail
- (4) To give or serve all notices required by law or these Rules of Procedure
- (5) To prepare the agenda for all meetings of the Board
- (6) To be custodian of Board records

Section 1.2 Vacancies: Should any vacancy occur among the members of the Dangerous Buildings Board by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given by the Recording Secretary to the City Clerk. Should any vacancy occur among the officers of the Dangerous Buildings Board, the vacant office shall be filled in accordance with provisions of these Rules of Procedure, such officer to serve the unexpired term of the office in which such vacancy shall occur.

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Article II - Meetings

Section 2.0 Annual Meeting: The Annual Meeting of the Dangerous Buildings Board shall be the first meeting in January each year. Such meetings shall be devoted to the election of officers for that year and such other business as shall be scheduled by the Board.

Section 2.1 Regular Meetings: Meetings of the Dangerous Buildings Board shall be held in City Hall at a time and date scheduled by the Recording Secretary. At such meetings, the Board shall consider all matters properly brought before it. A regular meeting may be canceled or rescheduled by the Board at a prior meeting or by majority of the members of the Board with sufficient public notice of said change.

Section 2.2 Special Meetings: Special meetings of the Dangerous Buildings Board shall be held at a time and place designated by the officer calling the same, and shall be called by the Chairperson or Vice-Chairperson, with permission of the majority of the members of the Board, which permission may be obtained by telephone. Sufficient notice thereof as required by law or these Rules of Procedure shall be given by the Recording Secretary.

Section 2.3 Quorum: At any meeting of the Dangerous Buildings Board, a quorum shall consist of four members (a majority of the seven voting member board) of the Board. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A majority of the members is required to take action on all matters not of an administrative nature but a majority of a quorum may deal with administrative matters.

2.4 Voting: At all meetings of the Dangerous Buildings Board, each member attending shall be entitled to cast one vote.

Section 2.5 Disclosure: In the event that any members of the Dangerous Buildings Board shall have a personal interest in a matter then before the Board, he or she shall disclose his or her interest and be disqualified from voting upon the matter and the Recording Secretary shall so record in the minutes that no vote was cast by such member in that matter.

Section 2.6 Conduct of Meetings: All meetings of the Dangerous Buildings Board shall be open to the public. The order of business at meetings shall be as follows:

- (a) Call to Order
- (b) Roll Call
- (c) Approval of the agenda
- (d) Approval of the minutes of previous meetings
- (e) Public hearings and deliberations and determinations
- (f) Old business
- (g) New business
- (h) Announcements
- (i) Adjournment

No member or other person shall speak until duly recognized by the Chairperson and he/she shall immediately cease speaking if ruled out of order. Speakers other than members, after being recognized, shall commence by identifying themselves by name and address.

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Section 2.7 Adjourned Meetings: The Dangerous Buildings Board may adjourn a regular or special meeting if all business can not be disposed of on the day set and no further public notice shall be stated at the time of adjournment and is not changed after adjournment.

Section 2.8 Robert's Rule of Order: All meetings of the Dangerous Buildings Board shall, other than as provided in these Rules of Procedure, be governed by Robert's Rules of Order.

Article III - Hearings

Section 3.0 Request for Hearing: Any owner who has received a notice of determination may file a written request for a *de novo* hearing with the Dangerous Buildings Board.

If the building official is not satisfied with the response to the Notice of Determination , the building official may file a written request for a *de novo* hearing with the Dangerous Building Board.

Section 3.1 Schedule of Hearings: Upon receipt of either of such requests, the City shall schedule a hearing with the Board and shall notify the owner (by first class mail) of the time and place of said hearing.

Section 3.2 Finding of Fact: Following the hearing of the Board, the Board shall make a finding of fact upon which they shall base their decision. A finding of fact shall consist of the facts and circumstances relied upon by the Board in its determination and shall be based upon the evidence presented to the Board. The findings of fact and the decision thereon shall be recorded in the Minutes of the meeting.

Section 3.3 Decision: Within thirty (30) days after said hearing, the Board shall prepare its written decision and mail same, by first class mail, to the owner; said decision shall be supported by specific findings of fact, shall comply with the City Ordinance and shall be signed by the chair of the Board.