



## Agenda

**City of Kalamazoo – Building Board of Appeals  
241 W. South Street  
Kalamazoo**

**January 26, 2017**

**City Commission Chambers, City Hall**

**1:30 p.m.**

- A. Call to Order:
- B. Roll Call:
- C. Communications and Announcements:
- D. Approval of the Minutes:
- E. Initial Hearings:
- F. Re-hearings:
- G. Other Business:
  - The election of Board Members
  - City Ordinances
- H. Adjournment:

§ 9-323. (Reserved)

§ 9-324. (Reserved)

§ 9-325. (Reserved)

**§ 9-326. Definitions. [Amended 12-1-2014 by Ord. No. 1930]**

Generally. As used in this article, words and terms shall have the meanings ascribed to them in the building code adopted by § 9-22 and in Chapter 17 of this Code, unless indicated to the contrary. The following terms shall have the meanings indicated:

**BOARD** — The Building Board of Appeals as described in § 9-327.

**DANGEROUS BUILDING** — Any building or structure which, because of one or more violations of Chapter 9, Buildings and 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.

**§ 9-327. Building Board of Appeals. [Added 12-1-2014 by Ord. No. 1930<sup>37</sup>]**

- A. For the purpose of carrying out the provisions of this article, or Chapter 17, Article II, a Building Board of Appeals shall be created, consisting of seven members appointed by the City Commission, who meet one or more of the following qualifications:
- (1) A residential builder, licensed by the state;
  - (2) An architect or engineer, registered in the state;
  - (3) An employee or representative of the general contracting business with experience in nonresidential building construction;
  - (4) An individual with experience in residential and/or commercial property leasing, maintenance, or similar capacity;
  - (5) An owner of residential property existing within the City;
  - (6) An owner of property located in an historic district within the City; and
  - (7) A resident of the City of Kalamazoo.
- B. The City Fire Marshal and the Historic Preservation Coordinator shall be ex officio members of the Board with no voting power.

---

37. Editor's Note: This ordinance also repealed former § 9-327, Dangerous Buildings Board, as amended.

- (1) A description of the conditions causing the building to be a dangerous building ("dangerous conditions") and identifying the necessary repairs to correct the dangerous conditions;
- (2) An indication if permits for performance of work to repair the conditions are necessary;
- (3) A deadline by which the City must receive a written commitment to perform the necessary repairs;
- (4) A deadline for the repair of the dangerous building conditions; and
- (5) An indication that if either of the deadlines mentioned above is not complied with, the Building Official may request that the Building Board of Appeals order that the City may have the building razed or repaired. The cost incurred by the City shall become a lien against the property enforceable in the same manner as delinquent taxes.

**§ 9-330. Request for hearing. [Amended 12-1-2014 by Ord. No. 1930]**

- A. Any owner who has received such a notice of determination may file a written request for a hearing with the Building Board of Appeals asking that the Board:
- (1) Extend the deadline to perform the required repairs; or if 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 such 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 hearing with the Building Board of Appeals (even if the owner has also made such a request). The 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 Building Board of Appeals more than 10 days after the date the City mailed notice to such owner 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 the hearing.
- E. If the decision of the Board either under Subsection A or Subsection B does not resolve the situation in a timely manner based on such decision, then either the owner (following

21 days from the date of the mailing of the Board's decision to the owner, or within such time period as provided by law.

**§ 9-333. Placarding and vacating; abatement of rent. [Amended 12-1-2014 by Ord. No. 1930]**

- 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 § 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 Building Board of Appeals' ordered action. No person, other than the Building Official, shall deface or remove the placard.
- B. All occupants of a dangerous building on which a placard was placed under this section shall vacate such building 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 or permit anyone to occupy, such dangerous building on which the Building Official has placed a placard indicating the date on which such building is to be vacated. Only when the Building Official has provided the owner with written approval and the placard is removed from the dangerous building may human occupancy again occur. The Building Official shall remove such placard upon the complete repair of the dangerous conditions upon which the Board's decision was based.
- C. If, under 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.

**§ 9-334. Raze or repair. [Amended 12-1-2014 by Ord. No. 1930]**

- A. If the Board's decision is to have the City raze or repair the building, the City, at its sole option, may either:
  - (1) Assume the responsibility of performing the ordered task by use of City employees or by directly contracting with appropriately qualified persons or businesses to perform any or all of such task; or
  - (2) Assign the performance of the ordered task, by contract, to a receiver, who shall then assume the responsibility to perform, at its own expense, such task (by either its own employees or those with whom the receiver contracts).
- B. If the City elects to perform the ordered task, either through its employees, third-party contractor or receiver, the owner shall reimburse the City for all costs it incurred in the effort (including reasonable administrative costs and expenses).

- (1) If the proceeds from a foreclosure sale are insufficient to pay the sum due, the City may recover said deficiency in the same manner as delinquent property taxes.
- D. Any judgment, including the cost for reasonable attorney fees incurred, obtained by the City shall bear interest at the statutory allowed rate for money judgments.

**§ 9-340. Purchase by receiver. [Amended 12-1-2014 by Ord. No. 1930]**

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).

**§ 9-341. Recovery of deficiency.**

- A. 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.

**§ 9-342. Alternative means of recovery.**

- A. 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.

**§ 9-343. Lis pendens. [Amended 12-1-2014 by Ord. No. 1930]**

Upon commencement of razing or repairing the dangerous building, 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 to raze or repair such building.

**§ 9-344. Exercise of control. [Amended 12-1-2014 by Ord. No. 1930]**

From the time repairs commence by the City, including through a third-party contractor or through a receiver, until the time the cost of those repairs is fully paid by the owner, the owner shall exercise no control over the building nor occupy nor cause or allow another to occupy such dangerous building.