

TOWNSHIP OF CHESTER OTTAWA COUNTY, MICHIGAN

Ordinance Number 2009-11-03

AN ORDINANCE TO REGULATE VACANT AND/OR ABANDONED BUILDINGS AND STRUCTURES AND WEEDS IN ORDER TO PREVENT BLIGHT AND MINIMIZE NUISANCES; ENFORCEMENT AND PENALTIES.

THE TOWNSHIP OF CHESTER (the "Township"), OTTAWA COUNTY, MICHIGAN, ORDAINS:

Section 1 FINDINGS

The Township Board hereby determines that the presence of vacant or abandoned buildings and structures and/or noxious weeds creates an element of neighborhood blight and nuisance. It is recognized that blight lowers property values, leads to deteriorating housing conditions, undermines the quality of neighborhood life, adversely affects the public health, safety and general welfare and can also result in human injury and criminal activities. It is also determined that vacant and unoccupied buildings and structures and/or noxious weeds occupy an inordinate amount of Township administrative and ordinance enforcement resources. As such, the Township Board finds the prolonged presence of certain vacant and/or abandoned buildings and structures and/or noxious weeds to be unacceptable to the citizens of Chester Township.

Section 2 DEFINITIONS

As used in this chapter:

- A. "Abandoned residential structure" means any building which has been used or was intended for use as a residential dwelling, in whole or in part, including an accessory building, which has become vacant or abandoned for a period of at least sixty (60) consecutive days and which also meets at least one of the following conditions:
1. Is open to casual entry or trespass;
 2. Is open to the elements;
 3. Is dangerous or dilapidated;
 4. Is fire damaged to an extent which prohibits safe human occupancy;
 5. Is the site of loitering or vagrancy;
 6. Demonstrates a lack of property maintenance and upkeep as evidenced by one or more violations of the Township Building or Construction Code;
 7. Is under notice for being in violation a of Township ordinance or ordinances;
 8. Has been secured or boarded up for at least sixty (60) days;
 9. Has taxes in arrears to the Township for a period of time exceeding three hundred sixty-five (365) days;
 10. Has utilities disconnected or not in use;
 11. Is under a condemnation notice or legal order to vacate;
 12. Is structurally unsound; or
 13. Is a potential hazard or danger to persons.

- B. "Accessory building" means a subordinate structure on the same premises as the main residential structure, the use of which would be naturally and normally incidental to that of the main structure, whether the main structure is an abandoned residential structure or vacant building, such as, but not limited to, a garage, pole barn, lean-to, barn or storage shed.
- C. "Owner" means any person or entity with any legal or equitable ownership or possessory interest in the structure and/or building. The word "owner" shall also include a bank, credit union, or financial institution which is in possession (in whole or in part) of the structure and/or building.
- D. "Secured" means a building which has all points of entry into the structure either:
 - 1. Closed by use of windows and doors which are in proper working order, intact, without holes, broken elements, and are locked; or
 - 2. Are secured by exterior grade plywood in compliance with this chapter.
- E. "Vacant Building" means any building which is unoccupied for one hundred twenty (120) consecutive days or longer.

Section 3 RECOVERY OF COSTS

If all or part of the costs required by this Ordinance are not paid to the Township or are overdue, the Township may recover such sums by any or all of the following:

- A. Directing the Township Assessor to add the amount due to the next tax roll of the Township as a single lot assessment and collect said sum in the same manner as provided by law for collection of taxes and special assessments;
- B. Filing a lawsuit against the owner for entry of civil money judgment;
- C. Pursuing a municipal civil infraction proceeding; or
- D. Any other means available by law or in equity.

Section 4 SECURING STRUCTURES OR BUILDINGS; CONDITION OF STRUCTURES AND BUILDINGS

- A. A Township order to secure an abandoned residential property or vacant building shall be complied with by the owner thereof within seventy-two (72) hours. If the securing has not been completed or does not comply with the requirements for securing the structure or building under this Ordinance, the Township may secure the structure or building and the Township shall bill the owner of record for all costs incurred, including any service fee and administrative costs, which shall be paid by the owner of the property. The amount so billed shall also constitute a personal debt of the owner.
- B. Plywood boarding shall be placed over all points of entry on an abandoned residential structure such that all exterior openings suitable for animal or human entry are secured as follows:
 - 1. On all first story and ground assessable points of entry, such shall be secured by use of exterior grade plywood or its equivalent, of at least one-half inch thickness, cut to the size of the opening and secured by the use of Phillips headed two-inch long screws; and
 - 2. On entry points being secured above the first story or were not accessible from ground level, such shall be secured by use of exterior grade plywood or its equivalent of at least one-half inch thickness, cut to the size of the opening and secured by the use of 16-penny common nails.

- C. Every abandoned residential structure, vacant building, and accessory building shall be kept in good condition and repair at all times. No such building or structure shall be kept, maintained or allowed to be in an unsafe, dilapidated or dangerous condition. No such building or structure shall have, be in a condition or exhibit any of the traits, conditions, circumstances or elements specified anywhere in Section 2, Subsections (A)(1-6) or (12-13) of this Ordinance at any time.

Section 5 RIGHT OF ENTRY AND INSPECTION

If the owner has failed to secure a property as required under this Ordinance and it has been secured by the Township, the Township may enter or reenter the structure or building to conduct necessary inspections to insure compliance with the requirements of this Ordinance and to determine if there are any emergency or hazardous conditions.

Section 6 NOXIOUS WEEDS AND LONG GRASS

- A. For purposes of this Ordinance, “noxious weeds” shall include grass or weeds on or comprising the lawn or yard of any abandoned residential structure or vacant building which exceed eight (8) inches in height. The definition of “noxious weeds” shall also include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* L.), and poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*), or other plant at any location within the Township which in the opinion of the Chester Township Board constitutes a common nuisance.
- B. The Township Board shall appoint a person to be the Chester Township Commissioner of Noxious Weeds who shall take the oath required of Township officers and shall hold the office for a term of two (2) years and until a successor is appointed by the Chester Township Board. The Township Board may, at any time, remove such Commissioner of Noxious Weeds for good cause shown and may appoint a successor to serve the remaining portion of the term. The Commissioner of Noxious Weeds may also hold one or more other Township offices or positions, including, but not necessarily limited to, Township Zoning Administrator, Township Building Inspector, and/or Township Ordinance Enforcement Officer.
- C. The Township shall have such remedies as are provided by this Ordinance and law for the eradication of noxious weeds, including the issuance of one or more municipal civil infraction citations/tickets. In addition, if the owner, agent, or occupant of a property fails to destroy (or properly cut) noxious weeds after ten (10) days’ prior written notice by the Township, then any Township official, contractor, or agent authorized by the Chester Township Board may enter upon the property and destroy the noxious weeds by cutting. Expenses incurred in the destruction of such noxious weeds by the Township shall be paid by the owner of the property (*i.e.*, reimbursed to Chester Township). Chester Township shall have a lien upon the property for the amount of such costs and expenses. The refusal by the owner, agent, or occupant of the property to reimburse the Township for such costs and expenses shall also constitute a municipal civil infraction offense.

- D. The prohibitions of this Section shall not apply to bona fide farm crops such as grains, wheat, oats, barley, or rye.
- E. Any property with an abandoned residential structure or vacant building thereon with noxious weeds shall be deemed to be in violation of this Ordinance.
- F. Prior to entering onto a property to destroy noxious weeds, the Commissioner of Noxious Weeds shall notify the owner, agent, or occupant of the land on which noxious weeds are found by sending a written notice by certified mail with return receipt requested to the owner, agent, or occupant of such land. The notice shall describe the methods of treating and eradicating the noxious weeds and a summary of the provisions of this Ordinance (or enclosing a copy thereof). If the owner, agent, or occupant refuses to destroy the noxious weeds within ten (10) days of the date of receipt of such written notice, the Commissioner of Noxious Weeds may enter upon the land and destroy the noxious weeds. In lieu of such notice, Chester Township may publish a notice in a newspaper of general circulation within Ottawa County during the month of March indicating that weeds not cut by May 1 of that year may be cut by the Township and the owner of the property shall be charged with the costs thereof. Such publication shall describe the methods of treating and eradicating the noxious weeds and a summary of the provisions of this Ordinance (or a reproduction of the same). The newspaper notice shall also indicate that if the owner, agent, or occupant refuses to destroy the noxious weeds, the Chester Township Commissioner of Noxious Weeds may enter upon the land and destroy the noxious weeds and the expenses incurred in such destruction shall be paid by the owner of the land and the Township shall have a lien against the land for the amount of the expense.
- G. On or before the first day of December of each year, the Chester Township Commissioner of Noxious Weeds shall make and send a written report to both the Michigan Department of Agriculture and the Chester Township Board. Such report shall be made out upon forms furnished by the Michigan Department of Agriculture and shall contain such information with reference to the existence and growth of noxious weeds as the Michigan Department of Agriculture may require.

Section 7 RESPONSIBILITY FOR VIOLATIONS

All nuisance, housing, noxious weed, building, and related code and ordinance violations will be cited and noticed to the owner of record of the property at issue (as shown on the Township's property tax roll) and shall become the owner's responsibility to bring the property into full compliance with this Ordinance and all code and other Township ordinance requirements. If the owner sells or otherwise disposes of the property to another party, the new owner shall not be entitled to any extension of time to correct or address such violations as existed at the time of sale, transfer or conveyance of the property.

Section 8 PENALTIES AND ENFORCEMENT

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 the provisions of this Ordinance committed by the same owner or 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.

The prohibitions and penalties of this Ordinance shall apply not only to the owner or owners and to any person, firm, entity, corporation or association who or which does anything prohibited by this Ordinance and those who aide and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property in violation of this Ordinance.

In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance *per se*.

Section 9 SEVERABILITY

Each portion of this Ordinance shall be deemed to be severable. Should any article, section, subsection, paragraph, subparagraph, sentence, or clause of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not effect the validity of this Ordinance in whole or in part, other than that part declared to be unconstitutional or invalid.

Section 10 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after this Ordinance or a summary thereof appears in the newspaper as provided by law.

The above ordinance was offered for adoption at a regular meeting of the Chester Township held on November 9, 2009 by Township Board Member Creager, and was seconded by Township Board member Redding, the vote being as follows:

Yeas-Kelly, Redding, Berenbrock, Goodno, Creager

Nays-none

Absent/Abstain-none

Ordinance declared adopted.

Submitted by,

Janice Redding
Chester Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Chester Township Board at the time, date, and place specified above pursuant to the required statutory procedures.

Dated: _____

Respectfully submitted,

By _____

Janice Redding

Chester Township Clerk