

**BANKS TOWNSHIP**  
**Ordinance No. 22 of 1997**

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO PROHIBIT DANGEROUS BUILDINGS WITHIN THE TOWNSHIP, TO PROVIDE INSPECTION AND ABATEMENT PROCEDURES FOR THE TOWNSHIP, AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF

THE TOWNSHIP OF BANKS ORDAINS:

**Section 1. Title.**

This Ordinance shall be known as the Banks Township Dangerous Building Ordinance.

**Section 2. Definitions.** As used in this Ordinance,

- (a). "Building" means any structure, either temporary or permanent, having a roof supported by columns, walls, or other means above or below ground that is used or designed for the purpose of shelter, support, or enclosure of persons, animals, or property or that is used or designed for the purpose of conducting business activities or other similar uses within.
- (b). "Building code" means the building code or codes enforced by the Antrim County Building Department within Banks Township.
- (c). "Dangerous building" means a building or structure, or any portion thereof, whether residential or otherwise, which is in one of the following conditions:
  - (1). Because of damage by fire, wind, flood, or other cause, or because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support either (A) has structural strength or stability less than the minimum requirements of the Housing Law of the State of Michigan, being Act 167 of the Public Acts of 1917, as amended, or the building code enforced within Antrim County or (B) is likely to partially or completely collapse or become detached from the main portion of the building or structure; or
  - (2). Because of damage by fire, wind, flood, or other cause, or because of dilapidation, deterioration, decay, or faulty construction is not completely enclosed from the elements.
- (d). "Dwelling" means any building, or any portion of a building, designed and constructed, remodeled, or used primarily for residential purposes.

- (e). "Owner" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity that holds any legal or equitable interest in real property.
- (f). "Single family dwelling" means any dwelling designed for or occupied by only one (1) family and containing private kitchen, bath, and sleeping facilities for only one (1) family.
- (g). "Structure" means any production or pieces of work artificially built or composed of parts joined together in some definite manner, including but limited to buildings, signs, decks, fences, antenna and other towers, satellite dishes, and cisterns.
- (h). "Two-family dwelling" means any building, or any portion of a building, designed for or occupied as two (2) independent single family dwellings and containing private kitchen, bath, and sleeping facilities for each single family dwelling.

**Section 3. Prohibited Conduct.**

It shall be unlawful for any owner to keep or maintain a dangerous building as defined in this Ordinance within Banks Township.

**Section 4. Inspection.**

Township representatives shall have the right to enter onto private property to inspect buildings or structures to determine violations of or compliance with this Ordinance. This right of inspection may be exercised by the consent of the person having the right of possession of the building or structure or by administrative search warrant.

**Section 5. Notice of Dangerous Building.**

Before beginning enforcement action under this Ordinance or abating a dangerous building itself, the township enforcement officer shall give the owner and any occupant written notice of the dangerous condition, the location of the dangerous building, a description of the action necessary to make the dangerous building safe, and a time period not exceeding six (6) months to eliminate the dangerous condition. The notice to the owner shall be served on the owner at the address appearing on the latest township tax assessment roll. If the owner does not fully comply with the notice, then the township may begin enforcement action under this Ordinance, including the right to abate the dangerous building under Section 7 of this Ordinance.

**Section 6. Hearing Before Township Board.**

Following service of the notice required by Section 5 of this Ordinance and upon request of the owner, the Township Board shall hold a hearing for the purpose of reviewing the

findings of the township enforcement officer. This hearing shall be held no more than thirty (30) days after receipt by the township of the owner's request for a hearing. At the hearing the owner or his or her representative shall be given the opportunity to show cause why enforcement action under this Ordinance should not be taken. The Township Board shall then either approve, disapprove, or modify the notice issued by the township enforcement officer. If the Township Board approves or modifies the notice issued by the township enforcement officer, it shall set a new date by which the owner shall eliminate the dangerous condition. If the owner does not fully comply with the notice, as originally issued or modified, then the township may begin enforcement action under this Ordinance, including the right to abate the dangerous building under Section 7 of this Ordinance.

**Section 7. Abatement of Dangerous Building by Township; Cost Reimbursement; Notice; Lien.**

- (a) If the owner fails to comply with the notice issued under Section 5 of this Ordinance or the notice approved or modified by the Township Board under Section 6 of this Ordinance, then in addition to the other remedies provided in this Ordinance, the township may take such steps as are necessary to abate the dangerous building, including the complete demolition of the dangerous building. Before the complete demolition of the dangerous condition occurs, the township shall secure at least one (1) estimate from a contractor licensed by the State of Michigan that the cost of eliminating the dangerous condition exceeds the state equalized value of the building or structure that appears on the last tax assessment rolls.
- (b) The costs incurred by the township in abating the dangerous building under subsection 7(a) above, including reasonable inspection fees by contractors and engineers and reasonable attorney fees, shall be reimbursed to the township by the owner. The township assessor shall send notice of these costs to the owner at the address appearing on the latest township tax assessment roll. If the dangerous building is a single family dwelling or a two-family dwelling and if the owner fails to pay these costs within thirty (30) days after the township assessor mails the notice, the township shall have a lien on the real property on which the dangerous building was located for the costs incurred by the township to eliminate the dangerous condition, including the costs for the complete demolition of the dangerous building. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection shall not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, being Act 206 of the Public Acts of 1893, as amended.

- (c). In addition to proceeding under subsection 7(b) above, the township may bring an action against the owner of the dangerous building for the full costs incurred by the township in abating the dangerous building under subsection 7(a) above, including reasonable inspecting fees by contractors and engineers and reasonable attorney fees. If the dangerous building is a single family dwelling or a two-family dwelling, the township shall have a lien against the owner's interest in all real property located in the State of Michigan for the amount of the judgment obtained pursuant to this subsection. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection shall not have priority over previously filed or recorded liens and encumbrances. The lien provided for in this subsection may be foreclosed upon by advertisement as provided by law.

#### **Section 8. Municipal Civil Infraction.**

Any person who shall violate any provision of this Ordinance, including failure to comply with a notice issued under Sections 5 or 6 of this Ordinance, shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than One Hundred and 00/100 (\$100.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

#### **Section 9. Enforcement Officers.**

The Zoning Administrator and the Township Supervisor are hereby designated as the authorized township officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

#### **Section 10. Nuisance Per Se.**

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

#### **Section 11. Separate Action.**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

#### **Section 12. Severability.**

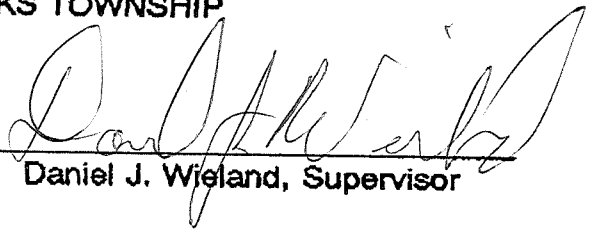
If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining

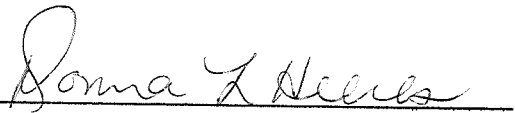
portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 12. Effective Date.**

This Ordinance shall become effective thirty (30) days after its first publication.

**BANKS TOWNSHIP**

By:   
Daniel J. Wieland, Supervisor

By:   
Donna L. Heeres, Clerk

### ORDINANCE CERTIFICATION

At a regular meeting of the Banks Township Board, Antrim County, held in the Banks Township Hall, located in Ellsworth, Michigan, on April 28, 1997, at 7:30 P.M.

PRESENT: Wieland, Veenstra, Heeres, Vander Ark, Strange

ABSENT: None

It was moved by Wieland and supported by Strange

that the following Ordinance (being Ordinance No. 2) be adopted:

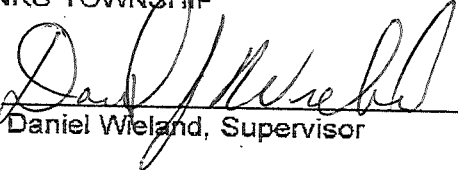
(See attached BANKS TOWNSHIP ORDINANCE)

YES: Wieland, Strange, Vander Ark, Veenstra, Heeres

NO: None

### ORDINANCE DECLARED ADOPTED.

BANKS TOWNSHIP

By:   
Daniel Wieland, Supervisor

I, the undersigned, the Clerk of the Township of Banks, Antrim County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Banks Township Board of said County at its regular meeting held on April 28, 1997, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in the Antrim County News on May 28, 1997.

Dated: 5/19/97   
Donna Heeres, Clerk