

**STATE OF MICHIGAN
COUNTY OF HURON
VILLAGE OF PORT AUSTIN**

AMENDED ORDINANCE NO. 82 - 12
DANGEROUS BUILDINGS

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF THE VILLAGE OF PORT AUSTIN BY REGULATING THE MAINTENANCE AND SAFETY OF CERTAIN BUILDINGS AND STRUCTURES; TO DEFINE THE CLASSES OF BUILDINGS AND STRUCTURES AFFECTED BY THE ORDINANCE; TO ESTABLISH ADMINISTRATIVE REQUIREMENTS AND PROCEDURES FOR THE MAINTENANCE OR DEMOLITION OF CERTAIN BUILDINGS OR STRUCTURES; TO ESTABLISH REMEDIES; TO PROVIDE FOR ENFORCEMENT; AND TO FIX PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

THE VILLAGE OF PORT AUSTIN ORDAINS:

Section 1: Title.

This ordinance shall be known and cited as the Village of Port Austin Dangerous Building Ordinance.

Section 2. Unlawful Conduct.

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 (4).

Section 3. Designation of Enforcement Agency.

The Village Council, through the Huron County Building & Zoning Department, Village Zoning Inspector, Village Police Chief and/or such other official(s) or agency as may be designated by the Village Council, shall enforce the provisions of this Ordinance and shall have jurisdiction to establish the inspection and violation procedures to implement said enforcement.

Section 4. Dangerous Buildings Defined.

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

- a.) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the village.
- b.) A part of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and the building or structure does not meet the minimum requirements of the applicable code.
- c.) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

- d.) A part of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to winds than is required in the case of new construction under the applicable code.
- e.) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the purpose of support, or for other reason, is likely to collapse partially or completely, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- f.) The building or structure of any portion of the building or structure is manifestly unsafe for the purpose of which it is used.
- g.) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and may become an attractive nuisance to children who might play in the building or structure to their danger, may become a harbor for vagrants, criminals, or immoral persons, or may enable person to resort to the building or structure or committing a nuisance or an unlawful or immoral act.
- h.) A dwelling, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition determined by the health officer to be likely to cause sickness or disease or is likely to injure the health, safety, or general welfare of people living in the dwelling.
- i.) A building or structure is vacant, dilapidated, and open leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- j.) 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 license under article 25 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2501 to 339.2515 of the Michigan Compiled Laws. This Subdivision does not apply to either of the following:
 - 1.) A dwelling as to which the owner or agent does both of the following:
 - a.) Notifies a local law enforcement agency in the village that the dwelling will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the dwelling becomes unoccupied.
 - b.) Maintains the exterior of the dwelling and adjoining grounds in accordance with this ordinance or the building code of the village.
 - 2.) A secondary dwelling of the owners that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies a local law enforcement agency in the village 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 the subparagraph shall notify the law enforcement agency not more than 30days after the dwelling means a dwelling such as a vacation home, hunting cabins, or summer home, that is occupied by the owner or member of the owner's family during part of a year.

Section 4. Notice of Dangerous Building

- a.) Notice Requirement. Notwithstanding any other provision of this act, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building.
- b.) Parties Entitled to Notice. The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment record.
- c.) Contents of Notice. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the hearing officials should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- d.) Service of Notice. 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 10 days before the date of the hearing included in the notice.

Section 5. Hearing, Testimony, Decision.

- a.) Hearing Body. Hearings shall be conducted before the Village Planning Commission. The Planning Commission shall set the hearing date.
- b.) Hearing Testimony and Decision. At a hearing, the Planning Commission shall take testimony of the enforcing agency, the owner of the property, and any interested party. No less than 5 days after completion of the hearing, the Planning Commission shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- c.) Compliance with Planning Commission's Order. If the Planning Commission determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the Planning Commission shall so order, fixing a time in the order for the owner or agent to comply with the order. If the building is a dangerous building under subsection (2)(j) the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees and shrubs.
- d.) Noncompliance with Planning Commission's Order/Request to Enforce Order. If the owner or agent fails to appear or neglects or refuses to comply with the order issued under subsection (4) (c) the Planning Commission shall file a report of the findings and a copy of the order with the Village Council not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed in section 4.

Section 6. Enforcement Hearing Before the Village Council.

The Village Council shall fix a date not less than 30 days after receiving notice of noncompliance for a hearing on the findings and order of the Planning Commission and shall give notice to the owner, agent, or lessee in the manner prescribed in section 4 of the time and place of the hearing. At the hearing the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The Village Council shall either approve, disapprove, or modify the order. If the Village Council approves or modifies the order, the Village Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner or agent shall comply with the order within 60 days after the date of the hearing under this subsection. In the case of an order of demolition, if the Village Council determines that the building or structure has been substantially destroyed by fire, wind, flood, or other natural disaster, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner or agent shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.

Section 7. Implementation and enforcement of remedies

- a.) Implementation of Order by Village. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Village Council, the Village Council may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- b.) Reimbursement of Costs. 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 Village to bring the property into conformance with this act shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- c.) Notice of Costs. The owner or party in interest in whose name the property appears upon the last local tax assessment record shall be notified by the assessor of the amount of the cost of 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.
- d.) Lien for Unpaid Costs. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the Village shall have a lien for the cost incurred by the Village to bring the property into conformance. 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 filled 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., Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 et seq. of the Michigan Compiled Laws.
- e.) Other Remedies. In addition to other remedies under this ordinance, the Village 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 Village shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection. 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.

Section 8. Judgment; Enforcement Against Assets of Owner.

A judgment in an action brought pursuant to subsection (7) (e) may be enforced against assets of the owner other than the building or structure. The village shall have a lien for the amount of a judgment obtained pursuant to Section (7)(e) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not have priority over prior filed or recorded liens and encumbrances.

Section 9. Noncompliance with Order: Civil Infraction.

Persons violating this ordinance shall be responsible for a Grade D (Level 4) civil infraction, plus costs, which may include all direct or indirect expenses to which the Village has been put in connection with the violation. Each and every day of noncompliance is a separate violation.

Section 10. Appeal of Village Council Decision.

An owner aggrieved by any final decision or order of the Village Council made pursuant to this Ordinance may appeal the order to the Circuit Court for Huron County by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

Section 11. Emergency.

The enforcement agency or his authorized representatives shall have the power to abate any public nuisance from any dangerous structure or building if the public safety shall require immediate action due to a distinct hazard to life or property, without preliminary notice as otherwise required by this section. Thereafter, the cost of abating such public nuisance shall be charged against the owner or occupant of the premises and payment hereof shall be enforced as a special assessment.

Section 12. Severability.

The various Articles and provisions of this Ordinance shall be deemed to be severable, and should any Article or provision of this Ordinance be declared by any court or competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any Article or provision of this Ordinance other than the Article or provision so declared to be unconstitutional or invalid.

Effective Date:

Amended:

Amendment Effective: