

**VILLAGE OF HONOR
DANGEROUS BUILDING ORDINANCE
ORDINANCE NO. 2013- 43**

**AN ORDINANCE TO PROVIDE FOR THE ELIMINATION OF
DANGEROUS BUILDINGS IN THE VILLAGE**

PURSUANT TO MCL 125.538 -125.543 and MCL 67.1, THE VILLAGE OF HONOR, BENZIE COUNTY, MICHIGAN ORDAINS:

SECTION I: Title

This Ordinance shall be known and cited as the “Dangerous Building Ordinance.”

SECTION II: Definition of Terms

As used in this Ordinance, the following words and terms shall have the meanings stated herein:

- A. **Dangerous Building** means any building or structure (which includes “modular, mobile, or manufactured homes”), residential, commercial, or otherwise, that has one or more of the following defects or is in one or more of the following conditions:
1. A door, aisle, passageway, stairway or other means of exit does not conform to an applicable fire code.
 2. A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of the Housing Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being section 125.401 et. seq. of the Michigan Compiled Laws or other applicable building code for a new building or structure, purpose or location.
 3. A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
 4. A portion 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 wind than is required in the case of new construction by the Housing Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 et. seq. of the Michigan Compiled Laws, or the applicable building code.
 5. 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 support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
 6. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used.

7. The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
8. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer of the village or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
9. A building or structure is vacant, dilapidated and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
10. 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 licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2518. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:

(i) A building or structure if the Owner does both of the following:

- a. Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the Owner not more than 30 days after the building or structure becomes unoccupied.
- b. Maintains the exterior of the building or structure and adjoining grounds in accordance with this Ordinance or the applicable building code.

(ii) A secondary dwelling of the Owner that is regularly unoccupied for a period of 180 days or longer each year, if the Owner notifies a local law enforcement agency in whose jurisdiction the dwelling is located 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 this subparagraph shall notify the law enforcement agency not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling, including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the Owner or a member of the Owner's family during part of a year.

- B. **Enforcing Agency** means the Village Council, which shall be responsible to administer this Ordinance; or such officer or agency as the Council may subsequently designate by Resolution.
- C. **Applicable Building Code** means the building code applicable to structures within the Village of Honor.
- D. **Hearing Officer** means the person appointed by the Village President to preside over, and render a decision on, the hearing referred at Section V, C below.

- E. **Owner** means the Owner and any other person shown to have an interest in a Dangerous Building as shown in the last tax assessment records, or a person appearing, in these proceedings, as an agent for an Owner.

SECTION III: Prohibition of Dangerous Buildings

It shall be unlawful for any Owner thereof to keep or maintain any building or part thereof which is a Dangerous Building as defined in this Ordinance.

SECTION IV: Notice of Dangerous Building; Hearing

- A. **Notice Requirement:** Notwithstanding any other provision of this Ordinance, 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 given to each Owner of the building or structure in whose name the property appears on the last local tax assessment records of the village.
- 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 Officer 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 either personally or by certified mail, return receipt requested. If a notice is served 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 at least 10 days before the date of the hearing included in the notice.

SECTION V: Dangerous Building Hearing Officer Duties, Hearing; Order

- A. **Appointment of Hearing Officer:** The Hearing Officer shall be appointed by the Village President to serve at his or her pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, inspector, or member of a community housing organization. An employee of the Enforcing Agency shall not be appointed as a Hearing Officer.
- B. **Filing Dangerous Building Notice with Hearing Officer:** The Enforcing Agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.
- C. **Hearing Testimony and Decision:** At a hearing prescribed by this Ordinance, the Hearing Officer shall take testimony of the Enforcing Agency, the Owner of the property, and any other interested party. Not more than five days after completion of the hearing, the Hearing Officer shall render a written decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- D. **Compliance with Hearing Officer Order:** If the Hearing Officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the Hearing Officer shall fix a time in the order for the Owner to comply with the order, which time shall not be less than 21 days

after the date the order is mailed to the Owner, by first-class mail. If the building is a Dangerous Building as described at Section II, A, 10, the order may require the Owner 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.

- E. **Noncompliance with Hearing Officer Order/Request to Enforce Order:** If the Owner fails to appear or neglects or refuses to comply with the order issued under Section V, D, of this Ordinance, the Hearing Officer shall file a report of the findings and a copy of the order with the Enforcing Agency not more than five days after noncompliance by the Owner and request that necessary action be taken by the Enforcing Agency to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the Owner in the manner prescribed in Section IV, D, of this Ordinance.

SECTION VI: Enforcement Hearing Before the Enforcing Agency or Dangerous Buildings Board of Appeals

The Enforcing Agency shall fix a date not less than 30 days after the hearing prescribed in Section V, C, of this Ordinance for a hearing on the findings and order of the Hearing Officer and shall give notice to the Owner in the manner prescribed in Section IV, D, of this Ordinance of the time and place of the hearing. At the hearing, the Owner shall be given the opportunity to show why the order should not be enforced. The Enforcing Agency shall either approve, disapprove, or modify the order. If the Enforcing Agency approves or modifies the order, the Enforcing Agency shall take all necessary action to enforce the order. If the order is approved or modified, the Owner shall comply with the order within 60 days after the hearing under this section. In the case of an order of demolition, if the Enforcing Agency (or the Board of Appeals) determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, deterioration, neglect, abandonment, vandalism, or other cause 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 shall comply with the order of demolition within 21 days after the date of the hearing under this section in a manner complying with applicable law, code, or regulation. If the estimated cost of repair exceeds the State Equalized Value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists.

SECTION VII: Implementation and Enforcement of Remedies

- A. **Implementation of Order by Enforcing Agency:** In the event of failure or refusal of the Owner to comply with the decision of the Enforcing Agency, the Enforcing Agency 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 to promote safety.
- B. **Reimbursement of Costs:** The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this act. The costs 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 Enforcing Agency to bring the property into conformance with this Ordinance shall be reimbursed to the Enforcing Agency by the Owner.
- C. **Notice of Costs:** The Owner shall be notified by the Clerk of the Enforcing Agency of the amount of the costs 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, to promote safety, by first-class mail at the address shown on the address shown on the last local tax assessment records.

- D. **Lien for Unpaid Costs:** If the Owner fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost, the Enforcing Agency shall have a lien for the costs incurred by the Enforcing Agency to bring the property into conformance with this Ordinance. 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 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, Act No. 206 of the Public Acts of 1893, as amended, being Section 211.1 et. seq. of the Michigan Compiled Laws.
- E. **Court Judgment for Unpaid Costs:** In addition to other remedies under this Ordinance, the Enforcing Agency may bring an action against the Owner of the building or structure for the full 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, to promote safety. The Enforcing Agency 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 and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.
- F. **Enforcement of Judgment:** A judgment in an action brought pursuant to Section VII, E, of this Ordinance may be enforced against assets of the Owner other than just the subject building or structure.
- G. **Lien for Judgment Amount:** The Enforcing Agency shall have a lien for the amount of a judgment obtained pursuant to Section VII, E, of this Ordinance 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 which the judgment is obtained. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

SECTION VIII: Sanction for Nonconformance with Order

Any person or other entity who fails or refuses to comply with an order approved or modified by the Enforcing Agency (or the Board of Appeals), under Section VI of the Ordinance within the time prescribed by that Section is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, plus actual costs, which may include all direct or indirect expenses to which the Enforcing Agency has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist (i.e., the order is not complied with) constitutes a separate violation.

SECTION IX: Appeal of Enforcing Agency Decision

An Owner aggrieved by a final decision of the Enforcing Agency (pursuant to Section VI) may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 21 days from the date the final decision is filed, in writing, with the Clerk of the Enforcing Agency, and mailed, by first-class mail, to the aggrieved Owner.

SECTION X: Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect.

SECTION XI: Effective Date

This Ordinance shall take effect 21 days after its passage.

The undersigned, Clerk for the Village of Honor, hereby certifies that the foregoing Ordinance was adopted by the Village Council on the __10th__ day of ____April_____, 2013, that a complete copy of the Ordinance was published in the on the 24th day of April, 2013, and that, immediately after publication, a copy of the ordinance was inserted in the Village Record of Ordinances, along with a certificate stating the time and place of publication.

Carol Wadell

Honor Village Clerk