



Village of Breedsville

82 E Main St. PO Box 152
Breedsville, MI 49027
(269) 427-9029

ORDINANCE 2021-10

Dangerous Building Ordinance

An ordinance to secure public health, safety, and general welfare of the residents and property owners of the Village of Breedsville, Van Buren County, Michigan; by regulating, preventing, reducing, or eliminating dangerous buildings; to provide for the enforcement hereof; and to provide penalties for the violation hereof. MCL 125.651 et seq.; dangerous buildings, MCL 125.538 et seq., and other relevant Michigan statutes.

THE VILLAGE OF BREEDSVILLE, VAN BUREN COUNTY, MICHIGAN ORDAINS:

SECTION 1: Dangerous building defined.

Any building or structure which has any of the following defects or is in one or more of the following conditions, shall be deemed a "dangerous building":

- (1) Whenever any door, aisle, passageway, stairway, or other means of exit does not conform to the fire prevention code of the Village.
- (2) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements set forth in any provision of this Code applicable for a new or similar building of like location, structure, and purpose.
- (3) Whenever any portion is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction in like location in accordance with the building code adopted by this chapter.
- (5) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting the building or portion thereof, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(6) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(7) Whenever the building or structure has been so damaged by fire, wind, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral act.

(8) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within.

(9) Whenever any building becomes vacant, dilapidated, and open at any door or window, leaving the interior of the building exposed to the elements or accessible to the entrance by trespassers.

(10) Whenever 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. This subdivision does not apply if the owner or agent of said building or structure notifies the Village that the building or structure will remain unoccupied for a period of 180 consecutive days, so long as said notification is given by said owner or agent not more than 30 days after the building or structure becomes unoccupied, or if the owner maintains the exterior of the building or structure and adjoining grounds in accordance with this section and applicable provisions of the building code.

Further, this subdivision does not apply to a secondary dwelling unit of the owner such as 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 the year so long as the owner notifies the Village police department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year.

SECTION 2: Appointment of the hearing officer.

A hearing officer shall be appointed by the Village when appropriate. The hearing officer shall be a person who has expertise in housing matters, including but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. The hearing officer shall not be an employee of the Village.

SECTION 3: Standards for repair, vacation, and demolition.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation, or demolition:

- (1) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, or general welfare of its occupants it shall be ordered to be vacated.
- (2) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
- (3) In any case where a "dangerous building" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this Code or other ordinance of the Village or state law, it shall be demolished.

SECTION 4: Dangerous buildings declared a nuisance.

All "dangerous buildings" within the terms of this article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished in accordance with this article.

SECTION 5: Duties of building inspector in respect to dangerous buildings.

The building inspector shall:

- 1) Inspect as needed all buildings in the Village for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the meaning of this article.
- 2) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- 3) Inspect any building, wall, or structure reported by the fire or police departments of the Village as probably existing in violation of the terms of this article.
- (4) Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in said building as shown by the land records of the county register of deeds of any building found by him to be a "dangerous building" that:
 - a. The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this section.

- b. The occupant or lessor must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - c. The mortgagee, agent, or other persons having an interest in the building as shown by the land records of the county register of deeds may at his own risk repair, vacate, or demolish the building or have such work or act done.
- (5) Set forth in the notice provided for in subsection (4) a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the structure to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable.
- (6) Report to the Village council any failure to comply with the notice provided for in subsections (4) and (5).
- (7) Appear at all hearings conducted by the Village council and testify as to the condition of dangerous buildings."
- 8) Place a notice on all "dangerous buildings" reading as follows:

"This building has been found to be a dangerous building by the • building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this· building, and all other persons having an interest in said building as shown by the land records of the Register of Deeds of the County of Van Buren. It is unlawful to remove this notice until such notice is complied with."

SECTION 6: Procedure upon failure to comply.

- (a) If the owner, agent or lessee fails to appear or neglects or refuses to comply with an order of the building inspector and pursuant to this article, the building inspector shall file a report of his findings and a copy of his order with the hearing officer and request that the necessary action be taken to demolish or otherwise make safe the building or structure. The copy of the findings and order of the building inspector shall be served on the owner, agent or lessee that is registered as such with the Village. If no one is so registered, 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 records. The notice shall be served either personally, by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records, or by posting on the structure in question. Service on the owner, agent, or lessee by one or more of these methods shall be made at least ten days before the date of the hearing included in the notice.

- (b) The hearing officer shall fix a date for a hearing, reviewing the findings and order of the building inspector, and shall give notice to the owner, agent or lessee in the manner prescribed in subsection (a) hereinabove, 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 building should not be demolished or otherwise made safe. The hearing officer, not more than five days after completion of the hearing, shall render a decision either closing the proceedings or ordering the building or structure demolished or otherwise made safe, or properly maintained. If the hearing officer determines that the building or structure should be demolished or otherwise made safe, or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent, or lessee to comply with the order. 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.
- c) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of the findings and a copy of the order with the Village council not more than five days after non-compliance 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 subsection (a) above.
- (c) The Village council shall fix a date not less than 30 days after the hearing presided over by the hearing officer, for a hearing on findings and order of the hearing officer, and shall give notice to the owner, agent, or lessee in the manner prescribed in subsection (a) of the time and place of this 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, they shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee 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, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.
- (d) 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, including the costs and expenses associated with enforcing this article and/or the actual costs and expenses of any legal action necessary to bring the property into conformance with this article, shall be reimbursed to Village by the owner or party in interest in whose name the property appears.
- (e) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the costs

of demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, including all costs referenced in subsection (e) above, by first-class mail at the address shown on the records. If the owner or party in interest fails to pay the costs 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 costs incurred by the Village to bring the property into conformance with this article. 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. 206PA 1893.

- g) In addition to other remedies under this act, 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. These costs shall include any and all costs incurred by the Village associated with the enforcement of this article and/or any costs incurred in prosecuting any legal action necessary to bring the property into conformance with this article. The Village shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection.
- h) A judgment in an action brought pursuant to the preceding subsection may be enforced against the 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 the previous subsection 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.

SECTION 7: Method of service.

In all cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the Village all notices or orders provided for in this article shall be sent registered or certified mail, return receipt requested, to the owner, occupant, lessee, mortgagee and all other persons having an interest in the building as shown by the land records of the county register of deeds to the last known address of each, and a copy of the notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

Section 8. Administrative liability.

No officer, agent, or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent, or employee of the Village as a result of any act required or permitted in

the discharge of his duties under this article shall be defended by the Village attorney until the final determination of the proceedings.

Section 9. Duties of Village attorney.

The Village Attorney shall:

- (1) Appear at all hearings before the Village council in regard to "dangerous buildings".
- (2) Bring suit to collect all municipal liens, assessments, or costs incurred by the Village Council in repairing or causing to be vacated or demolished "dangerous buildings".
- (3) Take other such legal action as is necessary to carry out the terms and provisions of this article.

Section 10. Removing notice prohibited.

It shall be unlawful for any person to remove any notice posted under the authority of this Ordinance.

Section 11. Emergency measures to render dangerous buildings temporarily safe.

When, in the opinion of the building inspector, there is actual and immediate danger to life, health or morals by virtue of the existence of a "dangerous building" as herein defined, he shall cause the necessary work to be done to render such building or structure, or part thereof, temporarily safe, whether or not the legal procedure herein described has been instituted.

Section 12. Violations; penalty.

- (a) The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate or demolish the building given by any person authorized by this article to give such notice or order shall be guilty of an offense and upon conviction shall be fined not exceeding \$500.00 for each offense and a further sum of \$50.00 for each day such failure to comply continues beyond the date fixed for compliance, or by imprisonment in the county jail for a period of not to exceed 93 days, or by both such fine and imprisonment in the discretion of the court.
- (b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of an offense and upon conviction thereof shall be fined not exceeding \$500.00 for each offense and a further sum of \$50.00 for each day such failure to comply continues beyond the date fixed for compliance or by imprisonment in the county jail for a period of not to exceed 93 days, or by both such fine and imprisonment in the discretion of the court.

Section 13. Validity

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 14. Supersede

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 15: Effective Date and Adoption

This ordinance shall become effective thirty (30) days after its publication as required by law.

CERTIFICATION

I further certify that trustee L. Weniger moved for adoption of said Ordinance No. 2021-10 W. Yeager, seconded said motion.

I further certify that the following members voted adoption of said Ordinance:
Ayes: L. Weniger, W. Yeager, T. Weniger, S. Rogusta Nays: None Absent: None

PASSED AND APPROVED by the Village Board of the Village of Breedsville on this 6th day April 2021.

I do hereby certify that a synopsis of this Ordinance No. in accordance with statutory requirements was published on April 17, 2021 in the South Haven Tribune, a copy of which is attached hereto.

Linda Norton, Village of Breedsville, Clerk
Steven Rogusta, President

ATTEST:
Linda Norton, Village Clerk

