



Village of Freeport
Ordinance # 42
Dangerous Buildings Ordinance
Adopted November 11, 2002

Effective: thirty days (30) following publication, following adoption

An ordinance to promote the health, safety and welfare of the people of the Village of Freeport, Barry County, Michigan, 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 prescribe procedures for the maintenance or demolition of certain buildings and structures; to establish remedies, provide for enforcement, and fix penalties for the violation of this ordinance; and to repeal all ordinances in conflict therewith.

Village of Freeport, Barry County, Michigan hereby

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Section 1: Title of Ordinance

This ordinance shall be known and may be cited as the 'Village of Freeport Dangerous Building Ordinance'.

Section 2: Definitions

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

A. 'Dangerous Building' means any building or structure, residential 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 codes as established by the Freeport Area Volunteer Fire department.
2. A portion 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 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 the Village 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 Act of 1917, as amended, being Section 125.401 et seq. of the Michigan Compiled Laws or the Village Building Code.

5. The Building or structure or a 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 some 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, 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 remains unoccupied for a period of 180 consecutive days or longer and it is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the Occupational Code, Act No. 299 of the Public Acts of 1980 being Section 339.2501 et seq. of the Michigan Compiled laws or its publically offered for sale by the owner. This subsection does not apply to either of the following:

a. A building or structure as to which the owner or agent does both of the following:

1. Notifies the Village of Freeport's Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given in writing by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with the Housing law if 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 and the Village Building Code.

b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Freeport Village Police Department 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 Freeport Police Department no more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, 'secondary dwelling' means a dwelling 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.

B. 'Enforcing agency' means this village, through the Village Building official and/or such other official(s) or agency as may be designated by the Village Council to enforce this ordinance.

Section III: Prohibition of Dangerous Buildings

It shall be unlawful for nay owner or agent to keep or maintain any building or part thereof which is a dangerous building as defined in this ordinance.

Section IV: Notice of Dangerous Buildings: 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 served on each owner or party in interests in 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 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 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 interests at the address shown on the tax records. If a notice is served upon 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 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, building inspector or a member of a community housing organization. An employee of the enforcing agency shall 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 interested party. Not more than five (5) days after completion of the hearing, the Hearing Officer shall render a 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 so order, fixing a time in order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under Section II (A) 10 of this ordinance, 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.

E. Noncompliance with Hearing Officer Order/Request to Enforce Order

If the owner, agent or lessee 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 Village Council not more than five (5) days after noncompliance by the owner and request that necessary action be taken to enforce the order. If the Village Council has established a Dangerous Building Board of Appeals pursuant to Section IX of this ordinance, the Hearing Officer shall file the report of the findings and a copy of the order with board of appeals and request that necessary actions 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 IV (D) of this ordinance.

Section VI: Enforcement Hearing before the Village Board or Dangerous Building Board of Appeals
The Village Council or the Dangerous Building Board of Appeals, as applicable, shall fix a date not less than 30 days after the hearing prescribed in Section V © of this ordinance for a hearing on the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section IV (D) of this ordinance of the time and place of the hearing. At the rearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The Village Council or Board of Appeals shall approve, disapprove or modify the order; the Village Council 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 section. In the case of an order of demolition, if the Village Council or Board of Appeals determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disasters 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 section.

Section VII: 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 or the Board of Appeals, as applicable, the Village Council may, in its discretion, contract of 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 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 Village to bring the property into conformance with this ordinance shall be reimbursed to the Village by the owner or party un 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 records shall be notified by the Village Treasurer 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, by first class mail at the address shown on the Village records.

D. Lien for Unpaid Costs: If the owner or party in interest fails to pay the costs within 30 days after mailing by the treasurer of the notice of the amount of the cost of a single family dwelling or a two family dwelling, the Village shall have a lien for the costs incurred by the Village 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 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 No. 206 of the Public Acts 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 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. In the case of a single family dwelling or a two family dwelling, 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 and recorded as provided by law, The lien does not have priority over prior filed or recorded liens and encumbrances.

F. Enforcement of Judgment: A judgments in an action brought pursuant to Section VII (E) of this ordinance may be enforced against assets of the owner other than the building or structure.

G. Lien for Judgment Amount: In the case of a single family dwelling or a two family dwelling, the Village 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. The lien provided for in this subsection shall not take effect until notice of the lien is filed and recorded as provided by law, The lien does not have priority over prior filed or recorded liens and encumbrances.

Section VIII: Penalty for Nonconformance with Order

A person who refuses to comply with an order approved or modified by the Village Board or Board of Appeals, as applicable under Section VI of the ordinance within the time prescribed by that section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500.00.

Section IX: Dangerous Building Board of Appeals

A. Establishment and Duties: The Village Council may establish a Dangerous Buildings Board of Appeals to hear all of the cases and carry out all of the duties of the Village Council described in Section VI of this ordinance. If the Village Council established a Board of Appeals, the establishment and operation of the Board of Appeals shall be controlled by the following provisions of this section.

B. Membership: The Board of Appeals shall be appointed by the Village Council and shall consist of the following members:

1. A building contractor
2. A registered architect or engineer
3. Two members of the general public
4. An individual registered as a building official, plan reviewer or inspector under the Buildings officials and Inspectors Registration Act, Act NO. 54 of the Public Act of 1986, being Section 338.2301 et. Seq. of the Michigan Compiled Laws. The individual may be an employee of the enforcing agency.

C. Terms: Board of Appeals members shall be appointed for three years, except that of members first appointed, two members shall serve for one year, to members shall serve for two years and one member shall serve for three years. A vacancy created other than by expiration of a term shall be filled for balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.

D. Officers: The Board of Appeals annually shall select a chairperson, vice chairperson and other officers that the Board of appeals considers necessary.

E. Quorum and Final Action Votes: A majority of the Board of Appeals members appointed and serving constitutes a quorum. Final action of the Board of Appeals shall be only by affirmative vote of a majority of the board members appointed and serving.

F. Compensation and Expenses: The Village Council shall fix the amount of any per diem compensation provided to the members of the Board of Appeals. Expenses of the Board of Appeals incurred in the performance of the official duties may be reimbursed as provided by law for the employees of the Village.

G. Open Meeting Act Applicable: A meeting of the Board of Appeals shall be held pursuant to the Open Meeting Act, Act No. 267 of the Public Acts of 1976, as amended, being Section 15.261 et seq. of the Michigan Compiled Laws. Public notice of the time, date and place of the meeting shall be given in the manner required by the Open meeting Act.

H. Freedom of Information Act Applicable: A writing prepared, owned, used, in the possession of, or retained by the Board of Appeals in the performance of an official function shall be made available to the public pursuant to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, being Section 15.231 et seq. of the Michigan Compiled Laws.

Section X: Appeal of Village Council/Board of Appeals Decision:

An owner aggrieved by any final decision or order of the Village Council or Board of Appeals, as applicable, under Section VI of this ordinance, may appeal the decision or order to the circuit by filing a petition for an order of superintending control within 20 days from the date of the decision.

Section XI: 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 XII: Effective Date:

This ordinance shall take effect 30 days after publication as required by law.

Yvonne Aspinall, Clerk
Village of Freeport

CLERK'S CERTIFICATE

I, YVONNE ASPINALL, Village of Freeport Clerk, Barry County, Michigan, do hereby certify that in pursuance of law and statute provided, at a special meeting of the Freeport Village Council held on the 11 day of Nov., 2002 at 7:30 o'clock p.m., at the Village of Freeport Community Center, located at 200 state st, Freeport, Michigan, at which the following members were present, the Council enacted and passed Ordinance No. 34, hereinbefore recorded, to become effective thirty (30) days following publication of the Notice of Adoption of Ordinance, and that the members of said Council present at said meeting voted on the adoption of said Ordinance as follows:

Ayes: Lyle Blough, Luann Forbes, Sharon Madole, Jerry Misko, Bruce Stearns, Renee Wierchz and Timothy Fish.

Nays: None

Absent: None

I do further certify that a summary of Ordinance No. 42, was published in the Sun & News, a newspaper printed in Hastings, Michigan, and circulated in the Village of Freeport, on the 26 day of Nov., 2002; a copy of Ordinance No. 42 was posted at the Village of Freeport Community Center on the 26 day of Nov., 2002; that said Ordinance No. 42 was recorded in the official Ordinance Book on the 26 day of Nov., 2002; and that an attested copy of said Ordinance No.42 was filed with the Barry County Clerk on the 10 day of Dec., 2002.

Dated: December 09, 2002


Yvonne Aspinall, Clerk
Village Of Freeport

