

**VILLAGE OF MATTAWAN
DANGEROUS BUILDINGS ORDINANCE
ORDINANCE NO. 201**

THE VILLAGE OF MATTAWAN ORDAINS:

SECTION 1 SCOPE AND PURPOSE

The procedures set forth in this Ordinance are established in the public interest, to secure the health and safety of the occupants of dwellings, structures, and the general public. To accomplish these goals, The Village Council of the Village of Mattawan intends to exercise its full constitutional, statutory, common law and charter powers to protect the public health, safety and welfare within the Village of Mattawan.

SECTION 2 APPLICABILITY

The provisions of this Ordinance shall apply to any person owning, occupying, managing, controlling or having any interest in any property located in the Village of Mattawan to which the requirements of this Ordinance apply.

The provisions of this Ordinance shall continue to apply to any person who abandons or seeks to abandon any property in the Village until another person has accepted responsibility for bringing the property into compliance with the requirements of this Ordinance.

SECTION 3 DESIGNATION OF ENFORCEMENT BODY

The Village Manager, Village Police Chief and/or the Village Building Inspector shall enforce the provisions of this Ordinance and shall have jurisdiction to establish the inspection and violation procedures to implement said enforcement.

SECTION 4 JOINT IMPLEMENTATION

The Ordinance may be enforced by any other governmental agency by joint agreement where joint enforcement is practicable.

SECTION 5 DANGEROUS BUILDING, PROHIBITION

It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof which is a dangerous building as defined in Section 6C.

SECTION 6 DEFINITIONS

- A. "Village Council" shall include the Village Council of the Village of Mattawan and the Zoning Board of Appeals of the Village of Mattawan.
- B. "Owner" means any person, firm, partnership, association or corporation and/or their legal successors, or any other legal entity which a court determines to have the legal right to own or occupy property which is subject to this Ordinance.
- C. "Dangerous Building" means a building or structure which 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 the applicable code.
 - 2. A portion of the building is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the applicable code.
 - 3. A portion of the building or structure has settled to such extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the applicable code.
 - 4. 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 support or for other reason, is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
 - 5. The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used.

6. The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers or otherwise 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.
7. A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise is in a condition that the Village Council or its authorized representatives or employees determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in the residence.
8. An owner has been previously notified of existing code violation(s) according to the provisions of this Ordinance or applicable code and after said notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days, then the structure shall be declared a dangerous building.

SECTION 7 NOTICE OF DANGEROUS AND UNSAFE CONDITION: ISSUANCE, RECIPIENT, CONTENTS, FILING, FORM, SERVICE; VILLAGE COUNCIL

- A. When the whole or any part of any building or structure is found to be in a dangerous condition, the Building Official or his authorized representatives or employees shall issue a written notice declaring that the building or structure is a dangerous building. The notice shall include a description of the real estate sufficient for identification. This may be a street number or other description. The notice shall itemize the code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish the building or structure.
- B. The notice shall be served on the owner of record, the registered agent, the occupant(s) and upon the holder of any encumbrance of record in the manner provided for service of a summons by the rules of court utilized by courts established by the State of Michigan. The Village shall attempt to make personal service of notice before serving notice by another means.
- C. If the owner or holder of an encumbrance of record cannot be found, the notice may be served by certified mail, return receipt requested, addressed to such person at the address shown on the tax records in the Assessor's office, by posting it on the main entrance of the building and publishing it once a week for three (3) successive weeks in a newspaper of general circulation within the Village. If the steps followed in this subparagraph are followed, service shall not be defeated by the failure of the Village to show that the certified mail was actually delivered.
- C. The notice shall specify the right of the owner to appeal to Village Council the dangerous building determination of the Building Official or his authorized representatives or employees. The notice shall also set forth the administrative appeal procedure, including the requirement that any appeal under this section shall be filed in writing with the Building Official or his authorized representatives or employees within ten (10) days of service of the notice.

SECTION 8 WAIVER OF HEARING; TESTIMONY; DETERMINATION TO CLOSE PROCEEDINGS OR ORDER BUILDING DEMOLISHED OR MADE SAFE; COMPLIANCE; HEARING; COST OF COMPLIANCE AS LIEN; COLLECTION

- A. If a written appeal of the dangerous building determination is not received within ten (10) days of the date of service of the notice, as described in Section 7, then a public hearing will not be necessary, and the matter shall be referred to the Village Council for resolution.
- B. If a written appeal of the dangerous building determination is received within the allocated ten (10) day period, then a public hearing will be scheduled before Village Council as soon as administratively possible. At the public hearing, the Village Council shall take the testimony from the Building Official and/or his authorized representatives and employees, testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous building pursuant to this Ordinance. The Owner shall have the right to cross examine all witnesses who testify in the proceeding, and to call witnesses regarding material matters. The Owner shall have the right to be represented by Counsel.
- C. If it is determined by the Village Council that the building structure is a dangerous building and therefore should be demolished or made habitable, then the Village Council shall order either that the building be demolished, or that necessary repairs be completed. The repairs shall be ordered to be completed by a specified time, which shall not exceed a reasonable time after the hearing and/or the resolution. The Village Council shall make findings of fact supporting its decision which are sufficient to allow a court reviewing the decision to determine the factual basis for the Council's decision.
- D. At such time as the Village Council renders its decision, the building and/or structure is unsafe or dangerous, the Building Official shall post in a conspicuous place a placard bearing the following words: "This building and/or structure has been determined by the Village of Mattawan Council to be unfit for human habitation." Such placard shall remain on the premises until such time as the

defect upon which the Council's determination was based has been eliminated, or until such time as the Village Council or the Circuit Court of Van Buren County so directs.

- E. If the ordered demolition or repairs are not completed within the allocated time period, as set forth in Section 8C, Village Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the structure or any part of the structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- F. The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the cost of the necessitated repairs or pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the Village of Mattawan and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Village of Mattawan. The Village Council shall also have the option of initiating a lawsuit to recover the Village's full cost of necessitated demolition and/or repair. If the Village receives a favorable judgment, then said judgment may be assessed against all of the assets of the owner of the property, not just the real estate that is the subject of the dangerous building determination.

SECTION 9 APPEAL TO CIRCUIT COURT

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

SECTION 10 EMERGENCY

The Building Official or his authorized representatives or employees 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 11 COSTS

All costs, fees and expenses incurred by the Village, including but not limited to attorney fees and costs and engineering fees and costs, in connection with the enforcement of this Ordinance shall be assessed against the owner as provided for in Section 8F, above.

SECTION 12 DURATION

This Ordinance shall remain in effect until repealed or modified by the Village Council of the Village of Mattawan.

SECTION 13 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.

SECTION 14 EFFECTIVE DATE

This Ordinance shall become effective upon publication complying with Village Charter, Chapter VII, Section 7.4. Any existing Ordinance or portion of an Ordinance in conflict with this Ordinance is repealed to the extent of such conflict.