

VILLAGE OF CALUMET

County of Houghton, State of Michigan

RESTATED ORDINANCE NO. 141

DANGEROUS BUILDINGS & STRUCTURES ORDINANCE

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY AND WELFARE ARE OF THE PEOPLE OF THE VILLAGE OF CALUMET, HOUGHTON COUNTY, MICHIGAN BY REGULATING THE MAINTENANCE AND SAFETY OF CERTAIN BUILDINGS AND STRUCTURES; TO DEFINE CLASSES OF BUILDINGS AND STRUCTURES AFFECTED BY THE ORDINANCE; TO ESTABLISH CERTAIN 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 OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE VILLAGE COUNCIL OF THE VILLAGE OF CALUMET ORDAINS THIS RESTATEMENT OF ORDINANCE NO. 141, ORIGINALLY ADOPTED ON OCTOBER 21, 2003:

I. TITLE

This ordinance shall be known and cited as the Village of Calumet Dangerous Buildings & Structures Ordinance.

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, 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 the Fire Code of the State of Michigan, Act No. 207 of the Public Acts of 1941 as amended, being Section 29.1, et seq. of the Michigan Compiled Laws, or the Construction Code of the State of Michigan, Act No. 230 of the Public Acts of 1972, as amended, being Section 125.1501, et seq. of the Michigan Compiled Laws.
 - 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 damages 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 Construction 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 Construction 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 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 or criminals or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of the of the county or state determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people if living in the dwelling.

9. A building or structure is vacant, dilapidated and open at 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, Act No. 299 of the Public Acts of 1980, as amended, being Section 339.250 I et seq. of the Michigan Compiled Laws, or is not publicly offered for sale by the owner. This subdivision does not apply to either of the following:

- a. A building or structure to which the owner or agent does both of the following:
 - (1) Notifies the Village Police Department in writing that the building or structure will remain unoccupied for a period of 180 consecutive days. The written notice shall be given 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 this ordinance and 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.
- b. A secondary dwelling of the owner that is irregularly occupied for a period of 180 days or longer each year, if the owner notifies the Village Police Department in writing that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the written notice prescribed by this subparagraph shall notify the Village Police Department in writing not 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 Administrator, Engineer and/or such other official(s) as the agency as may be designated by the Village Council to enforce this ordinance.
- C. "Building or Construction Code" means the Code enforced in Houghton County under the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, being Section 125.1501 et seq. of the Michigan Compiled Laws.

III. PROHIBITION OF DANGEROUS BUILDINGS

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

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. Notice will consist of an initial warning letter with a 21 day period to contact the Enforcing Agency with a corrective action plan. If no response is made a formal Notice of Dangerous Building will be issued.
- B. Parties Entitled to Notice - This 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 of the Village and the Register of Deeds.

- C. Contents of Notice - The notice shall specify the time and place of a hearing or 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 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 upon a person by Certified Mail, a copy of the notice shall also be posted in a conspicuous part of the building structure. The notice shall be served upon or party in interest at least 10 days before the date of the hearing included in the notice.

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 subject to approval by the Village Council. 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. 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 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 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. Provided, however, that if the building or structure is in a historic district, within the meaning of the Local Historic Districts Act, Public Act 169 of 1970, as amended, of the Public Acts of the State of Michigan, then the hearing officer shall not render a decision until having first applied to the Historic District Commission for the Village for approval of the proposed decision in light of Section 5(6) of that Act (MCL 399.205(6)). If the Historic District Commission approves the proposed order of the hearing officer or a revision of the proposed order of the hearing officer, then the hearing officer shall render his/her decision not more than five days after the approval of that decision or a revision of that decision by the Historic District Commission.
- 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 the 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 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. 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 the Board of Appeals 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 IV. D. of this Ordinance.

VI. ENFORCEMENT HEARING BEFORE THE VILLAGE COUNCIL 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.C. of this ordinance for a hearing on the finding 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 hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The Village Council or the Board of Appeals shall either approve, disapprove or modify the order. If the Village Council or the Board of Appeals 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, 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 the Board of Appeals 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 section. An order of demolition issued pursuant to this ordinance supersedes any waiting period for a demolition permit established by Ordinance No. 79 of the ordinances of the Village of Calumet or any other ordinance.

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 Dangerous Building Board of Appeals, as applicable, 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 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 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 records shall be notified by the township assessor 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 full costs associated with the demolition or making the building safe or of maintaining the exterior of the building or structure or grounds adjoining the building or structure within 30 days after mailing by the treasurer 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 ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. 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 Judgement 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 judgement 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.
- F. Enforcement of Judgement - A judgement in an action 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 Judgement Amount - The Village shall have a lien for the amount of a judgement 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 judgement 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

VIII. SANCTIONS FOR NONCONFORMANCE WITH ORDER

Any person or other entity who fails or refuses to comply with an order approved or modified by the Village Council, or Dangerous Building Board of Appeals, as applicable, under Section VI of

this ordinance within the time prescribed by that Section is responsible for a municipal civil infraction as defined by Michigan law and subject to a sanction of \$500.00 and costs. 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 constitutes a separate violation.

IX. DANGEROUS BUILDING BOARD OF APPEALS

- A. Established Duties - The Village Council may establish a Dangerous Building Board of Appeals to hear all of the cases and carry out all of the duties of the Village Council described in Section V. of this ordinance. If the Village Council establishes 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 Dangerous Building Board of Appeals shall be appointed by the Village Council and shall consist of the following members:
 - 1. A licensed building contractor;
 - 2. A licensed architect or engineer;
 - 3. Two members of the general public;
 - 4. An individual registered as a building official, plan reviewer or inspector under the Building Officials and Inspectors Registration Act, Act No. 54 of the Public Acts of 1986, as amended, being Section 338.2301 et seq. of the Michigan Compiled Laws. The individual may not be an employee of the enforcing agency.
- C. Terms - Dangerous Building Board of Appeals members shall be appointed for three years, except that of the members first appointed, two shall serve for one year, two 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 the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms
- D. Officers - The Dangerous Building 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 Dangerous Building 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 Dangerous Building Board of Appeals. Expenses of the Board of Appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the Village of Calumet.

- G. Open Meetings Act Applicable - A meeting of the Dangerous Building Board of Appeals shall be held pursuant to the Open Meetings 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 Meetings Act.
- H. Freedom of Information Act Applicable- Any writing prepared, owned, used, in the possession of, or retained by the Dangerous Building 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.

X. APPEAL OF VILLAGE COUNCIL/BOARD OF APPEALS DECISION

An owner aggrieved by any final decision or order of the Village Council, or the Dangerous Building Board of Appeals, as applicable, under Section V1 of this ordinance 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 of the decision.

XI. SEVERABILITY

The provisions of this ordinance are 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.

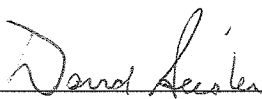
XII. REPEAL

All ordinances or parts thereof in conflict herewith are repealed.

This Ordinance shall become effective immediately upon publication.

Approved and adopted this 16th day of October, 2018.

VILLAGE OF CALUMET

By _____
DAVID GEISLER,
Its President

PASSED AND ADOPTED this 16th day of October, 2018.

Attest:


JULIE DAHLSTROM,
Village Clerk

Yeas: Virginia Dwyer, Sandra Johnson, Roxanne King, Jeffrey P. Mihelcich, Darice Taylor, and David Geisler

Nays: Peggy Germain

Absent/Abstain: None

I hereby certify that the foregoing is a true and complete copy of restated Ordinance No. 141, duly adopted by the Village Council of the Village of Calumet, County of Houghton, and State of Michigan, at a regular meeting held on October 16, 2018, and that this meeting was conducted and a public notice of this meeting was given, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan 1976, and that the minutes of this meeting were kept and will be or have been made available, as required by said Act.

I further certify that the following members were present at said meeting: Virginia Dwyer, Peggy Germain, Sandra Johnson, Roxanne King, Jeffrey P. Mihelcich, Darice Taylor, and David Geisler (Village President); and that no members were absent.

I further certify that the Ordinance has been recorded in the Ordinance Book of the Village, and that such recording has been authenticated by the signatures of the Village President and the Village Clerk.

JULIE DAHLSTROM,
Village Clerk