

**VILLAGE OF AUGUSTA, MICHIGAN**

**ORDINANCE NO. 168**

An ordinance to define and prohibit dangerous buildings and to provide a procedure for the repair or demolition of dangerous buildings, and to assess the costs thereof and to provide penalties therefore, and to repeal Ordinance No. 84.

**WHEREAS**, Public Act No. 144 of 1992 of the State of Michigan establishes a procedure for municipalities to define, prohibit, and repair or demolish dangerous buildings, and to assess the costs thereof and to provide penalties for violations thereof, and

**WHEREAS**, the Village of Augusta desires to adopt that procedure for dangerous buildings in the Village of Augusta,

**NOW, THEREFORE**, pursuant to the authority granted to the Village of Augusta in Public Act No. 144 of 1992, as amended, and the General Law Village Act, being public Act No. 3 of 1895, as amended,

**THE VILLAGE OF AUGUSTA, MICHIGAN ORDAINS:**

**DANGEROUS BUILDINGS**

**Section 1. Definitions**

- (1) "Dangerous building" means a building or structure that has 1 or more of the following conditions:
  - (a) A door, aisle, passageway, stairway, or other means of exit that does not conform to the approved fire code of the Village.
  - (b) 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 damage and does not meet the minimum requirements of the building code of the Village.
  - (c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
  - (d) 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 by the building code of the Village.

- (e) 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.
- (f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (g) 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.
- (h) 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 otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer 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.
- (i) A building or structure that is vacant, dilapidated, or open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers, or becomes a haven for vermin, rodents, or other animals.
- (j) A building or structure that 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. This subdivision does not apply to any of the following:
  - (i) A building or structure as to which the owner or agent does both of the following:
    - (A) Notifies the Village that the building or structure will remain unoccupied for a



period of 180 consecutive days. The notice shall be given to the Village by the owner or agent 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 the ordinances of the Village.

(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 the Village 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 Village 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 a year.

(2) "Act" means Public Act 167 of 1917, as amended, being the Housing Law of Michigan.

(3) "Owner" means any person, corporation, partnership, or other entity that holds the legal or equitable title to a building or structure, alone or jointly with others; or that is the land contract purchaser of a building or structure; or that has the charge, care, custody, possession or control of any building or structure as owner or agent of the owner or as a fiduciary.

## **Sec. 2. Dangerous Buildings; Prohibited.**

It is unlawful for any owner or agent thereof to keep or maintain a dangerous building.

## **Sec. 3. Notices; Hearing Officer.**

(1) If a building or structure is found to be a dangerous building, the Village shall issue a notice that the building or structure is a dangerous building.

(2) The notice shall be served on each owner, agent, or party in interest in the building or structure in whose name the property appears on the last tax assessment records.

- (3) 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 on 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.
- (4) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (5) The hearing officer shall be appointed by the Village Council and serve at its 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 member of a community housing organization. An employee or agent of the Village shall not be appointed as a hearing officer. The Village shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

#### **Sec. 4. Hearing.**

- (1) At the hearing, the hearing officer shall take testimony of Village inspectors, the owner of the property, and any interested party. Not more than 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.
- (2) 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 other party in interest to comply with the order. If the building is a dangerous building under Sec. (1)(j), 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. A copy of the findings and order of the hearing officer shall be



served on the owner, agent or other party in interest in the manner prescribed in Sec. 3(3).

- (3) If the owner, agent or other party in interest fails to appear or neglects or refuses to comply with the order issued under subsection (2), the hearing officer shall file a report of the findings and a copy of the order with the Village Council not more than 5 days after noncompliance by the owner and request that necessary action be taken to enforce the order.
- (4) The Village Council shall fix a date not less than 30 days after the hearing before the hearing officer for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent or other party in interest in the manner prescribed in Sec. 3(3) of the time and place of the hearing. At the hearing, the owner, agent or other party in interest shall be given the opportunity to show cause before the Village Council why the order should not be enforced.
- (5) The Village Council shall either approve, disapprove, or modify the order of the hearing officer. If the Village Council approves or modifies the order, the Village shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or other party in interest 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 other party in interest shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.
- (6) 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 Ordinance shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- (7) 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 of the amount of 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 by first

class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the Village of the notice of the amount of the cost, the Village shall have a lien or the cost incurred by the Village to bring the property into conformance with this Act. 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 cost 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.

- (8) 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. 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 or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

#### **Sec. 5. Judgments.**

- (1) A judgment in an action brought pursuant to Sec. 3(8) may be enforced against assets of the owner other than the building or structure.
- (2) The Village shall have a lien for the amount of a judgment obtained pursuant to Sec. 3(8) 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. A lien provided for in this section 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.

#### **Sec. 6. Fines; Penalties.**

A person who fails or refuses to comply with an order approved or modified by the Village Council under Sec. 4 within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500 or both.



**Sec. 7. Appeal.**

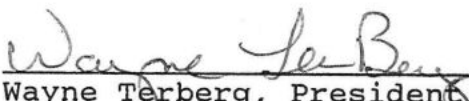
An owner, agent, or other party in interest aggrieved by any final order of the Village Council may appeal the decision or order to circuit court by filing a petition for an order for superintending control within 20 days from the date of the decision.


**Sec. 8. Repeal of Existing Ordinance.**

Ordinance number 84, adopted on December 12, 1966, is hereby repealed.

**Sec. 9. Effective date.**

This Ordinance will become effective on December 13, 1993. (Effective date must be not less than 20 days after adoption and after publication as required by law.)

  
Wayne Terberg, President

  
Kaye Mc Alear, Village Clerk

**CERTIFICATE**

I hereby certify that the foregoing Ordinance was adopted by the Village of Augusta at a meeting held on Monday, December 22, 1993, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.

  
Kaye Mc Alear, Village Clerk

## SECTION V

### MARKER AND MONUMENT FOUNDATIONS

A. All markers shall have a foundation the size of the makers and be 6" in depth; plus 8" width and length.

B. All monuments ( consisting of a die and base) shall have a foundation the size of the base and will be at least 6" in depth.

C. All foundations shall be of solid concrete.

D. In the event a monument or marker is to be placed on a hillside, the depth will be measured from the low side of the hill.

E. The Village of Augusta may at the Board's discretion add 8" in length and width to the full depth of each foundation size to any markers and monuments to help facilitate maintenance (trimming) at no extra charge to the family.

F. All costs for the repair of a marker or memorial shall be paid by the holder of said burial lot or space.

G. All markers or monuments must conform to the general plan of the cemetery and the Building & Grounds Committee shall make final determination as to the marker or monument being in conformance.

H. If any marker or monument falls into disrepair, the same may be removed by the Building & Grounds Committee after having given 30 days written notice to the holder of said burial lot, at the address given at the time of purchase or of any new address subsequently furnished to the Building & Grounds Committee.

I. Only one monument, marker, or memorial shall be permitted per burial space.

K. The cost of placing foundations for the support of markers and memorials shall be determined hereafter by resolution of the Building & Grounds Committee, and may be further amended hereafter also by resolution of the Building & Grounds Committee.

## SECTION VI

### INTERMENT REGULATIONS.

A. Only one body may be buried in a grave, except in the case of mother and infant, or in the case of two children buried at the same time, or not more than two cremains. Except for a columbarium headstone marker which may contain up to 12 cremains.

B. 48 hours notice shall be given in advance before the time of the funeral to allow the grave to be opened.

C. The conduct of the funeral shall be governed by the rules of the Building & Grounds Committee.

D. The burial permit must be presented to the Clerk of the Building & Grounds Committee on the date of interment.

E. All the graves shall be so located as to present a neat and orderly appearance as set forth in the rules and regulation of the Building & Grounds Committee.

F. An area may be set aside in the cemetery, at the discretion of the Building & Grounds Committee, for the burial of infants.



## SECTION VII

### REGULATIONS PERTAINING TO GROUND MAINTENANCE.

A. No grading, leveling, erecting, or excavating shall take place without the supervision and permission of the Building & Grounds Committee.

B. Planting trees, shrubs, bushes and such is prohibited.

C. All flowers including artificial flowers must be placed in disposable containers.

D. The Building & Grounds Committee reserves the right to remove any flower containers that become unsightly or detrimental to the cemetery.

E. The Building & Grounds Committee reserves the right to remove or trim any tree, plant, shrub, or flowers that were planted prior to the effective date of this ordinance in the interest of maintaining proper appearance and maintenance cost in said cemetery.

## SECTION VIII

### CEMETERY HOURS.

The cemetery of the Village of Augusta shall be open to the general public from the hours of 8:00 o, clock a.m. to sunset of each and every day. No person shall be permitted in said cemetery except by permission of the Building & Grounds Committee at others hours than herein specified.

## SECTION IX

### PERPETUAL CARE.

The Village of Augusta shall give perpetual care and maintenance to lots and burial spaces which were heretofor qualified and entitled to perpetual care as shown by the books and records of the Village of Augusta pertaining to cemeteries under Act 81 of the Public Acts of 1903 of the State of Michigan.

The fee for perpetual care of lots and burial spaces is included in the cost of lots and burial spaces set forth by the Building & Grounds Committee as defined in Section II. Perpetual care is limited to mowing and trimming of grass and leaf removal in cemetery only.

## SECTION X

### PENALTIES FOR VIOLATION.

Any person, firm or corporation who violates any of the provisions of the Ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail not exceed 90 days, or by both such fine and imprisonment.

## SECTION XI

### EMERGENCY MATTER AND INTERPRETATION.

The Building & Grounds Committee shall have the power and authority to interpret provisions of this Ordinance and shall have the authority to act upon the emergency matters concerning the Village cemetery which are not specifically covered in this Ordinance.

## SECTION XII

INVALID PROVISIONS.

The Provisions of the Ordinance are severable and should any section, paragraph, sentence, or word be held to be invalid by any court of competent jurisdiction, the remaining terms of this Ordinance shall not be affected thereby.

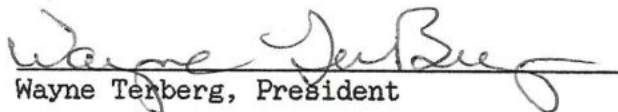
## SECTION XIII

REPEAL OF PRIOR ORDINANCES.

Village Ordinances No. 57, No. 70, No. 134, No. 140 are hereby repealed. Ordinance 140 and all ordinances or parts of ordinances in conflict herewith are hereby replaced.

EFFECTIVE DATE.

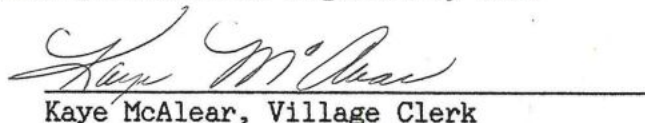
This ordinance will become effective on DEC. 13, 1993.  
(Effective date must not be less than 20 days after adoption and after publication as required by law.)

  
Wayne Tenberg, President

  
Kaye McAlear, Village Clerk

CERTIFICATE

I hereby certify that the foregoing Ordinance was adopted by the Village of Augusta at a meeting held on Monday, November 22, 1993 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.

  
Kaye McAlear, Village Clerk