

VILLAGE OF BEAR LAKE BLIGHT, JUNK
AND DANGEROUS BUILDINGS ORDINANCE
2015.01

An ordinance to promote the health, safety and welfare of the people of the Village of Bear Lake through the prevention, reduction or elimination of blight, blighting factors or causes of blight; to establish administrative requirements and prescribe procedures for the required maintenance or demolition of certain buildings and structures; to provide for the enforcement hereof; and to provide penalties for the violation hereof; and to repeal all ordinances or parts of ordinances in conflict therewith.

Section 1: PURPOSE

The Village of Bear Lake hereby determines that there are blighted properties and areas in the Village, including certain unsafe, abandoned, and dangerous structures or buildings, which impair neighboring taxable values, upon which municipal revenues depend; and that those blighted properties or areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens, and to the economic welfare of the Village. Accordingly, the purpose of this ordinance is to rehabilitate blighted properties in the Village in a manner consistent with the Public Act 344 of 1945, and other applicable laws, including MCL 125-523, et seq, as amended from time to time; in order to prevent, reduce or eliminate blight or potential blight, for the protection of the health, safety, morals and general welfare of the Village, to preserve existing values of other properties within or adjacent to the blighted properties, and to preserve the taxable value of the property within the Village.

Section 2: DEFINITIONS

- A. Building Materials means lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
- B. Dangerous Building means a building or structure that has one or more of the following defects or has one or more of the following conditions:
 - i. A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code, or the property is otherwise a fire hazard in a manner dangerous to the safety of persons or property;
 - ii. A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, 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 MCL 125-523, et seq, or the applicable building code for a new building or structure, purpose, or location;
 - iii. A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property;
 - iv. A portion of the building or structure has settled to 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 of MCL 125-523, et seq, or the applicable building code;
 - v. The building or structure, or a part thereof, because of dilapidation, deterioration, decay, faulty construction, 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;
 - vi. The building, structure, or a part of the building or structure

is manifestly unsafe for the purpose for which it is used; vii. The building or structure is hazardous to the safety, health, or general welfare of the people of the Village because of dilapidation; decay; damage, by fire, wind, flood, or otherwise; faulty construction; abandonment; inadequate maintenance. This includes a building or structure which: is unsanitary or unfit for its intended use or for human use or is an attractive nuisance to children; becomes a harbor for vagrants, criminals, or immoral persons; enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act; or is open at the doors and windows such that the interior of the building is exposed to the elements or entrance by trespassers.

viii. The building or structure that has light, air, or sanitation facilities which are inadequate to protect the health, safety, or general welfare of those who live or may live within; ix. A building or structure, or part thereof, which is likely to partially or entirely collapse, or some part of the foundation or underpinning is likely to fall or give way so as to injure persons or damage property;

x. The building or structure has become damaged or dilapidated to such an extent that the cost of repair to place it in a safe, sound, and sanitary condition exceeds 50 percent of the assessed valuation of the structure or property, at the time when repairs are to be made; xi.

A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, environmental factors, faulty construction or arrangement, or for other reason, 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; xii. The building or structure has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use; or xiii. 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 licensed real estate broker or otherwise listed as 'for sale by owner'; unless 30 days of the building becoming unoccupied, or the effective date of this ordinance, whichever is later, the owner or the owner's agent notifies the County police and the Enforcement Officer in writing that the building or structure will remain unoccupied for a period of 180 consecutive days AND the exterior of the building is otherwise maintained in compliance with this ordinance. The notice shall be renewed at least every 180 days in order to be effective. This subsection shall not apply to building or structure that is the secondary dwelling of the owner if the owner notifies the County police and the Enforcement Officer that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year.

- C. Dangerous Building Hearing Officer or Hearing Officer means a person appointed by and serving at the pleasure of the Village President. 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 Enforcement Officer, or a person whose advice is sought by the Enforcement Officer, shall not be appointed as the Hearing Officer.
- D. Enforcement Officer means the Village or such other officials or agencies designated by the Village or otherwise empowered under law or this ordinance to enforce the provisions of this ordinance. Such persons are authorized to seek advice from 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.

- E. Garbage means the accumulation of trash, refuse, or litter specifically including, but not limited to, containers once containing edible products, drinkable products or usable materials, as well as dead animals (or parts thereof) and discarded edible or drinkable items.
- F. Junk means unusable or otherwise dilapidated furniture, parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of woods, metal or any other material or other cast-off material of any kind whether or not the same could be put to any reasonable use.
- G. Junk Vehicle means a motor vehicle, boat, all terrain vehicle, recreational vehicle, snowmobile, trailer, or wheeled vehicle which is designated to be self-propelled, which is partially or totally dismantled or inoperable due to any other cause, including without limit disrepair, accident, or lack of licensing.
- H. Owner means a person or other entity with who owns a property or structure in the Village, or a portion of a property or structure, or agent of such person that is registered with the Village.
- I. Rubbish/Garbage means waste paper, tinware or aluminum ware, tin oluminum cans, tin or aluminum cuttings, box, glass, straw, shavings, barrels, lumber, paper cartons, lawn cuttings and trimmings. Compost piles shall be considered rubble unless they are located in discrete locations.
- J. Yard and Lawn Vegetation means bushes, trees, grass and other landscaping materials.
- K. Village means the Village of Bear Lake.

Section 3: REGULATION OF BLIGHT; UNLAWFUL ACTS.

- A. Causes of Blight. The Village determines that the uses, structures and activities described in this Section, or maintained in violation of this Section, are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods and constitute a public or attractive nuisance, due to physical condition or use. On and after the effective date of this ordinance, no person or other legal entity of any kind shall keep, maintain, or permit to be kept or maintained any of these causes of blight or blighting factors on any property in the Village. All persons or entities who own, manage, lease, rent, manage, or occupy any structure property shall be responsible for taking necessary steps to keep and maintain properties and structures in compliance with this ordinance.
- B. Exception. Any other provision of this ordinance notwithstanding, this ordinance does not apply to inventory on premises occupied by a merchant licensed under MCL 205-53 conducting a lawful business, or to the property that patrons of a lawful motor vehicle facility, furniture or appliance repair facility, or gasoline service station while left on the premises of either for purposes of service or repair.
- C. Dangerous Building. No person or entity shall keep or maintain any building or structure or portion thereof as a Dangerous Building, as defined in Section 2.

- D. Vacant Building. Any vacant dwelling, garage or other out-building shall be kept securely locked, windows kept glazed or neatly boarded up and otherwise protected as reasonably necessary to prevent entrance by vandals or other unauthorized persons, and cats, dogs, rats, mice and other vermin.
- E. Partially Completed Structures. No person or entity shall keep or permit to be kept any partially completed structure, unless in the course of construction in accordance with a valid and existing building permit issued by the State of Michigan, and unless exterior construction is completed within one year after the issuance of said building permit.
- F. Storage of Junk. No person or entity shall keep or permit to be kept any accumulation of Junk outside of a totally enclosed structure, unless neatly stacked and covered. Sidewalks must be unobstructed.
- G. Storage of Junk Vehicles. Except as provided herein, or as detailed in the Village's Dismantled Vehicle Ordinance of 1982, no person or entity shall park or store a Junk Vehicle on any property for a period of more than 30 days, unless kept within a completely enclosed building. Any person or entity who is repairing, or is about to have the vehicle repaired, may obtain a nonrenewable permit from the Village Clerk to permit the vehicle to remain on the premises for an additional 30 days., .
- H. Storage of Rubbish and Garbage. No person or entity shall keep or permit to be kept any Rubbish or Garbage outside of a totally enclosed structure unless kept within a covered can or other metal, plastic or rubber container designed for the same, and sufficient to prevent entry by rats, mice, cats, dogs and other vermin.
- I. Storage of Building Materials. No person or entity shall keep or permit to be kept outside of an enclosed structure any visible accumulation of building materials, unless the building materials are intended for use in connection with construction being done on the same property or an adjoining property, and a valid building permit, when required, has been issued and is posted on the property.
- J. Yard and Lawn Vegetation. Yard and lawn vegetation shall not interfere with pedestrian traffic on public sidewalks. All landscaping material on corner lots, terraces, or lots adjacent to alley and street intersections shall be maintained to allow clear vision for pedestrians and motorists and shall be removed if diseased or dead. Maximum growing height of weeds, turf grasses or ground cover shall be eight inches.
- K. Wood Piles. Piles shall be neatly stacked within 30 days of the wood being deposited onto the property.
- L. Waste. No person or entity shall intentionally deposit liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.

Section 4: ENFORCEMENT AND REMEDIES

- A. Enforcement Officer. The Village President and the President' s designee, or other persons designated by the Village council from time to time, , are empowered to perform the duties and functions to enforce this ordinance.

- B. **Right to Inspect.** If the Enforcement Officer has a reasonable basis for concern that a property or structure is being kept or maintained subject to causes of blight or blighting factors described in Sections 3, or otherwise in violation of the Ordinance, the Enforcement Officer shall have the right to enter commercial property during normal business hours for the purpose of conducting an inspection to the extent necessary to enforce the provisions of this ordinance, upon approval of the Village President. The inspection of commercial or private property may include a sanitary or health survey by a government official of the structure or property, collecting other data and material pertaining to public health, or enforcing the provisions of this ordinance. It shall be unlawful for any person to resist or attempt to prevent an identified Enforcement Officer from carrying out the Enforcement Officer's duties or powers under this ordinance.
- C. **Enforcement.** If the Enforcement Officer determines that a structure or property is being kept or maintained subject to causes of blight or blighting factors provided in Section 3, the Owner of the property shall receive written notice as described in Paragraph D of this Section. The Owner shall cause the causes of blight or blighting factors to be removed, eliminated, or otherwise remedied within 15 days of being served the written notice (or other reasonable time period as the Enforcement Officer determines sufficient in light of the nature of the required repairs). Additional time not to exceed 180 days may be granted by the Enforcement Officer where bona fide efforts to remove, eliminate, or otherwise remedy the causes of blight or blighting factors are in progress.
- D, **Written Notice.** Written notices required under Paragraph C of this Section shall: (i) be in writing, certified mail, postage prepaid, return receipt requested; (ii) describe the property and the causes of blight or blighting factors set forth in Section 3; (iii) specify the number of days in which the cause of blight or blighting factors must be removed or remedied within after service of the notice, and (iv) describe any applicable responsibilities and rights of the recipient under this ordinance, including process and appeal.
- E. **Initial, Informal Notice.** Prior to sending any written notice required by this ordinance, the Enforcement Officer in his or her discretion may forward, by regular mail, on each owner or party of interest of the property or structure, an informal notice that, in the opinion of the Enforcement Officer, there exist conditions in violation of this Ordinance, and providing the opportunity to correct these conditions within a time specified in the initial, informal notice. The decision on whether or not to send an "informal notice" rests solely in the discretion of the Enforcement Officer and is not a necessary prerequisite to the issuance of a written notice otherwise required by this ordinance. This "informal notice" process does not apply to structures that, in the opinion of the Enforcement Officer, constitute dangerous conditions.
- F. **Service of Notice.** Service of any written notice required by this ordinance shall be made upon the owner of the property or structure in whose name the property appears on the last local tax assessment records, by: (i) mailing a copy by certified mail, postage prepaid, return receipt requested and posting a copy of the notice upon a conspicuous part of the structure; or (ii) when service cannot be made by either of the above methods, publishing the notice in a local newspaper of general circulation once a week for three consecutive weeks and by posting a copy of the notice upon a conspicuous part of the structure.

- G. Penalties. Except as otherwise expressly provided in Section 4 of this Ordinance, any violation of the provisions of this Ordinance will be deemed a Municipal Civil Infraction, subject to a fine, in accordance with the Schedule of Fines set forth in the ordinance authorizing "Municipal Civil Infractions" in the Village Of Bear Lake (Ordinance No. 2015.01), the amount not to exceed \$250.00 for each offense. Any person guilty of violation of this article shall also be subject to civil proceedings for damages and/or injunctive relief by the Village or by any person or entity injured or damaged by such violation. Commencement of any such proceedings shall not constitute an election of remedies. Each day that a violation continues to exist shall constitute a separate offense.
- H. Additional Penalties and Procedures for Dangerous Buildings. If a building or structure is kept or maintained as a Dangerous Building in violation of Section 3 of this Ordinance, the following additional penalties and procedures may apply. This paragraph is intended to be, and shall be construed in a manner, consistent with MCL 125-523, et seq. If any notice or hearing procedure is inconsistent with that statute, that statute shall control.
- i. Repairs, Maintenance, or Demolition. A structure deemed to be a Dangerous Building in violation of this ordinance may be required to be demolished, otherwise made safe, or properly maintained. If the estimated cost of repair exceeds the state equalized value of the building or structure at the time of repairs, a rebuttable presumption exists that its demolition is required.
 - ii. Written Notice. If the Enforcement Officer seeks repair or demolition of a Dangerous Building, the Enforcement officer shall issue a notice that the building or structure is a Dangerous building 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. The notice shall state the grounds for the Enforcement Officer's determination that the structure is a Dangerous Building and specify the repairs and improvements required to be made to render the structure safe in compliance with this ordinance, or that the Enforcement Officer has determined that the structure should be demolished. The notice shall be served as required in this ordinance (certified mail, postage prepaid, return receipt requested) and 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 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. 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.
 - iii. Hearing Officer; Testimony and Decision. The Enforcement Officer shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer. At the hearing, 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. The Hearing Officer shall make factual findings supporting its conclusions. 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. 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.

- iv. 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 by the Hearing Officer, 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 noncompliance 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 Section 4(D)(ii) of this ordinance.
- v. Hearing Before the Council. The Village council shall fix a date not less than 30 days after it receives the request for action from the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in this Section 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 shall either approve, disapprove or modify the order. If the council approves or modifies the order, the 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 approval. In the case of an order of demolition, if the Village council determines that the cost of repair of the building, structure, or property will be greater than the state equalized value of the building or structure at the time of repairs, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing. An owner aggrieved by a final decision or order of Village council regarding a Dangerous Building under this Section 4(H) may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.
- vi. 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 within the time period provided in this ordinance, the Village 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. 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 in interest in whose name the property appears. The cost of demolition includes, but is not limited to, fees paid to hearing officers and attorneys, 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 ordinance.
- vii. Notice of Village Implementation Costs; Lien. 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 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 certified mail, postage prepaid, return receipt requested, at the address shown on the Village 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 ordinance. 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, Public Act 206 of 1893, as amended, (MCL 211.1, et seq.).

- viii. Additional Remedies. 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. The Village shall have a lien on the property for the amount of a judgment obtained under 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.
- ix. Sanction 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 within the time prescribed by this ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which the Village has been put in connection with the violation. 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.

Section 5: EFFECTIVE DATE AND ADOPTION; REPEAL

The Village of Bear Lake Blight, Junk and Dangerous Buildings Ordinance, No. 2015.01 passed August 12, 2015 shall become effective after its publication as required by law. The Village of Bear Lake Blight/Junk Ordinance, as adopted on August 19, 2009, is repealed as of the effective date of this ordinance, as well as all ordinances or parts of ordinances in conflict herewith, provided that this Ordinance shall not be construed to repeal expressly or by implication any provisions of an Applicable Building Code.