

DANGEROUS BUILDING ORDINANCE

ORDINANCE NUMBER 219-00

AN ORDINANCE TO AUTHORIZE THE VILLAGE TO
REHABILITATE OR DEMOLISH UNSAFE BUILDINGS

THE VILLAGE OF BANCROFT ORDAINS:

Section 1. Definitions.

(1) Generally. For the purposes of this ordinance, words and terms used herein shall have the meanings ascribed to them in this Section 1, unless indicated to the contrary.

(2) "Hearing Officer". As used in this ordinance, the term "officer" or "Hearing Officer" shall mean the Hearing Officer provided for in Section 4.

(3) Dangerous Building. As used in this ordinance, the term "Dangerous Building" shall mean any building, dwelling, dwelling unit or structure which:

- (1) Is a "Dangerous Building" as described and defined in Section 139 of the Housing Law, being Act 167 of the Public Acts of 1917, as amended
(MSA § 5.2891 (19); MCL § 125.539)
- (2) Because of damage by fire or wind or because of its dilapidated condition, is dangerous to the life, safety or general health and welfare of the occupants or the people of the Village.
- (3) Has light, air or sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (4) Has inadequate means of egress.
- (5) Has parts thereof which are so attached that they may fall and injure persons or damage property.
- (6) Is vacant and open, at door or window, leaving the interior exposed to the elements or accessible to entrance by trespassers or animals, or open to casual entry.

- (7) Has been damaged or vandalized or has deteriorated to such an extent as to be unfit or unsuitable for occupancy and which has not been made habitable or safe, to the standards of this article and other ordinances of the Village within thirty (30) days after notice is given by the building official to the last known owner or person having the right to possession thereof.
- (8) Is hazardous to the safety, health or welfare of the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
- (9) Is in such a condition as to constitute a nuisance.
- (10) Is boarded up or unoccupied for a period of more than 180 consecutive days or longer and is not listed as being available for sale, lease or rent with a real estate broker, except when the Owner has notified the Village of its intentions to keep the building unoccupied and continuously maintains the property and grounds, or if the building is classified as a second home, vacation home, hunting cabin or is to be occupied by the Owner or a member of the Owner's family part of the year.

The term "Dangerous Building" shall also include any sign, fence, shed, lean-to, cellar or other structure which has become so rotted, burned, broken, or dilapidated as to be likely to fall over or collapse and injure persons or damage property.

- (a) Designated Enforcement Official. As used in this ordinance, the term "Designated Enforcement Official" shall mean that individual designated by resolution of the Village Council to enforce this ordinance.

(4) Owner. As used in this ordinance, the term "Owner" shall mean the owner, occupant, lessee or any other person with an interest of record in a Dangerous Building or the property on which a Dangerous Building is located, or any building or property which the Village is investigating to determine whether a violation of this ordinance exists.

(5) Village. As used in this ordinance, the term "Village" shall mean the Village of Bancroft.

Section 2. Maintenance of Dangerous Building Prohibited.

(1) It shall be unlawful for any Owner(s) to keep, own, occupy or maintain any Dangerous Building within the Village.

(2) The Village finds that any Dangerous Building located within the Village constitutes a public nuisance; in addition to any other penalty or liability provided for in this ordinance, any person who keeps, owns, occupies or maintains a Dangerous Building shall be liable for maintaining a public nuisance.

(3) The Village may enter upon property for the purpose of making surveys, measurements, inspections, examination, tests, borings, samplings; taking photographs, videotaping; conducting an environmental inspection; or for any other purpose reasonably necessary to carry out the provisions of this ordinance. If reasonable efforts to enter have been obstructed or denied, the Village may commence a civil action in Circuit Court for an Order permitting entry, and restraining or enjoining further obstruction or denial of access. The complaint shall state the facts making the entry necessary, the date or dates on which entry is sought, and the duration of the entry. The court shall permit entry by the Village upon such terms as justice and equity require.

Section 3. Notice to Owners.

(1) When the whole or any part of any building is found to be in a dangerous or unsafe condition (as defined in Section 1(c)), the Designated Enforcement Official shall issue a notice of the dangerous or unsafe condition. The notice shall be served on the Owner(s) by either certified mail or personal service. A copy of said notice should also be posted in a conspicuous place on the building.

(2) Such notice shall be directed to the Owner(s), as well as any other party with an interest in the building or the property on which the building is located.

(3) The notice shall identify the condition or conditions for which the building has been found to be dangerous or unsafe; specify that a permit or permits for the performance of work to correct such violations be obtained from the county building official and the time within which the violation shall be corrected. If the Owner(s) finds that the work cannot be completed within the time specified, or for any other reason, the Owner(s) may appeal to the Hearing Officer, to show cause why the structure should not be ordered to be demolished or otherwise made safe. If the Owner(s) do not complete correction of the violation or complete demolition within the time specified by the notice, then the Designated Enforcement Official shall send the Owner(s), a second notice, stating the date on which the Owner(s) shall appear before the Hearing Officer to

show cause why the structure should not be ordered to be demolished or otherwise made safe. This notice shall be served on the Owner(s) in the manner prescribed in Section 3(a).

(4) The Designated Enforcement Official shall file a copy of the notice provided for in this section with the Hearing Officer.

Section 4. Appointment of Hearing Officer.

(1) For the purpose of carrying out the provisions of this article, a Hearing Officer shall be appointed by the Village Council upon the recommendation of the Village President.

(2) The Hearing Officer shall be paid on a per diem basis for conducting hearings or a pro-rated amount for a partial day.

(3) The Hearing Officer may not be a Village employee.

Section 5. Hearing.

At the time and place fixed in the notice given pursuant to Section 3, the Hearing Officer shall conduct the hearing referred to in such notice. Both the Village and the Owner(s) may be represented by counsel at this hearing. The Hearing Officer may take the testimony of the Designated Enforcement Official, the Owner(s), occupant, lessee or agent of the property or any interested party, as well as any other evidence relevant. The use of pictures, video tapes, or other recording devices shall be permitted to present evidence in the hearing. The Hearing Officer shall render findings of facts, which shall include but not be limited to:

- (1) Evidence of relevant building and building regulations.
- (2) The condition or state of repair of the building, dwelling or structure.
- (3) The estimated cost of repair or demolition of the building, dwelling, or structure.
- (4) The equalized assessed value of the building, dwelling or structure
- (5) Recommendation regarding the action that should be taken with respect to the building.

On the basis of the Hearing Officer's findings, the Hearing Officer shall render a decision, either closing the proceedings or ordering the Dangerous Building to be demolished or otherwise made safe.

If it is determined by the Hearing Officer that the building, dwelling or structure is unfit for human habitation or is a Dangerous Building and should be demolished or otherwise made safe, the Hearing Officer shall so order, fixing a time in the order for the Owner(s) to comply therewith.

A copy of the findings and order of the Hearing Officer shall be served on the Owner(s) in the manner prescribed in Section 3(a).

Section 6. Action by Village Council.

(1) If, pursuant to Section 5, the Hearing Officer issues an order to demolish or otherwise make safe a Dangerous Building, and the Owner(s) neglects or refuses to comply with such order, or if the Owner(s) failed to appear to the hearing, the Hearing Officer shall file a report of the findings and a copy of the order with the Village Council and request that the Village take the necessary action to demolish or otherwise make safe the Dangerous Building.

(2) The Village Council shall fix a date for hearing, reviewing the findings and orders of the officer and shall give notice to the Owner(s), in the manner prescribed in Section 3 of the time and place of the hearing. At the hearing, the Owner(s) shall be given the opportunity to show cause why the Dangerous Building should not be demolished or otherwise made safe and the Village Council shall either approve, disapprove or modify the order of the officer.

Section 7. Appeal from decision or order of Village Council.

(1) Any Owner(s) aggrieved by a final decision or order of the Village Council under Section 6 may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within twenty-one (21) days from the date of decision.

Section 8. Placarding and vacating: abatement of rent.

(1) If an order to demolish a Dangerous Building is affirmed by the Village Council and no appeal is taken within the time prescribed by Section 6 or if an appeal is taken and the order is affirmed by the court, and the Owner(s) fail to comply with the order by demolishing the Dangerous Building or making it safe, the Designated Enforcement Official shall post, in a conspicuous place or places on the Dangerous

Building, a placard bearing the following words "CONDEMNED AS UNFIT FOR HUMAN OCCUPANCY." No person shall deface or remove such placard, except the Designated Enforcement Official, as provided for in this section.

(2) A Dangerous Building which has been placarded under this section shall be vacated within a reasonable time, as required by the Designated Enforcement Official. No owner or operator shall let to any person for human occupancy and no person shall occupy nor permit anyone to occupy any such Dangerous Building which has been placarded by the building official, after the date on which the Designated Enforcement Official has required such building to be vacated, until written approval is secured from, and such placard is removed by the Designated Enforcement Official. The Designated Enforcement Official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action was based, have been eliminated.

(3) If pursuant to the provisions of this section, a Dangerous Building has been ordered vacated by the Designated Enforcement Official and there is no compliance with the order in the time specified, the Designated Enforcement Official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate or demolish the Dangerous Building forthwith.

(4) If any Dangerous Building is occupied after it has been order vacated under the section, no rent shall be recoverable for the period of occupancy.

Section 9. Demolition or repair by Village.

(1) If no appeal is filed within the time prescribed by section 7, or if a final order to demolish a Dangerous Building or make it safe is affirmed by the court, and such order is not fully obeyed, the Village may demolish such Dangerous Building or take whatever steps necessary to make it safe. The cost of such work shall constitute both a personal liability of the Owner(s) and be a lien against the real property on which the Dangerous Building is located and shall be reported to the assessing officer of the Village who shall assess the cost against the property on which the Dangerous Building is or was located.

(2) The Owner(s) shall be notified of the amount of the cost referred to in subsection (a) by first-class mail at the address shown on the record.

(3) If the amount in subsection (a) is not paid 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; and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

(4) As an additional method of recovering the amount referred to in

subsection (a) above, the amount may be recovered by lawsuit against the persons referred to in subsection 1(e).

- (5) Interest shall accrue as provided for taxes and judgments by law.

Section 10. Fees for actions.

- (1) The Village Council may, by resolution, establish reasonable fees for covering the costs of actions taken with regard to this ordinance.

- (2) All costs incurred in enforcement of this ordinance may be assessed against the Owner(s) and be collected either personally from the Owner(s) or shall be a lien against the real property and shall be reported to the assessing officer of the Village who shall assess the cost against the property on which the building or dwelling is or was located.

- (3) The Owner(s) or any party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in subsection (b) by first class mail at the address shown on the record. If such person(s) fail to 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, and the same shall be collected in the same manner in all respects as provided by law for collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgments by law.

Section 11. Boarding up of building on notice by building official.

Whenever a building is a Dangerous Building under section 1 (c)(6) for a period of five (5) days after notice of said condition has been issued in accordance with Section 3 the Village may board up the building or take such other action as may be feasible and necessary to protect the health, safety and welfare of the Village. The costs and their recovery shall be governed by section 10, except that the cost to be recovered for boarding up the building shall be in the actual amount expended for the particular work done.

Section 12. Demolition or correction without prior notice of hearing.

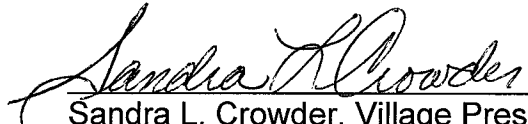
If a building is so dangerous that it poses an immediate threat to health or safety, the building may be demolished or otherwise made safe without prior notice of hearing. Such danger includes but is not limited to conditions which pose the immediate threat of collapse of the building. Section 10 and 11 shall apply to recoupment of Village costs, except that the notice requirements of Section 3 and 6 shall not apply.

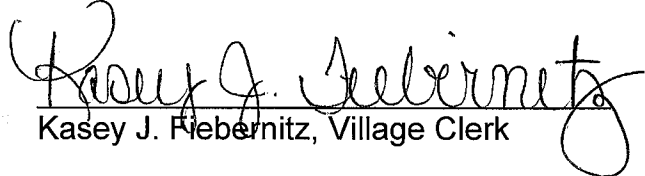
Section 13. Repeal; Savings Clause; Severability.

All other ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed. Each section of this ordinance and each subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subsection of this ordinance.

Section 14. Effective Date.

This Ordinance shall take effect and be in force twenty (20) days after its adoption. PASSED, ORDAINED AND ORDERED PUBLISHED BY THE VILLAGE COUNCIL OF THE VILLAGE OF BANCROFT AT A MEETING HELD ON THE 19TH DAY OF APRIL, 2000.


Sandra L. Crowder, Village President


Kasey J. Hebernitz, Village Clerk

STATE OF MICHIGAN)
)ss
COUNTY OF SHIAWASSEE)

I, the undersigned, the duly qualified Clerk for the Village of Bancroft, Shiawassee County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Bancroft Village Council on the 19th day of April, 2000, the original of which is in my office, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the Minutes of said meeting will be or have been made available as required by said Act.


Kasey J. Hebernitz, Village Clerk

DATED: APRIL 19, 2000