

ORDINANCE NO. 56

AN ORDINANCE TO REGULATE DANGEROUS BUILDINGS

THE VILLAGE OF MARTIN ORDAINS:

SECTION 1. REGISTRY OF OWNERS AND PREMISES.

(a) A registry of owners and premises shall be maintained by the building official of the Village.

(b) The owners of any structure containing a rental apartment or rental unit, a multiple dwelling or rooming house containing units which will be offered to let, or to hire, for more than six (6) months of a calendar year, shall register their names and places of residence or usual places of business and the location of the premises regulated by this act with the enforcing agency. The owners shall register within sixty (60) days following the day on which any part of the premises is offered for occupancy. Owners of multiple dwellings or rooming houses containing units which are occupied or offered for occupancy at the time this act becomes effective shall register within ninety (90) days after the effective date of this article.

(c) If the premises are managed or operated by an agent, the agent's name and place of business shall be placed with the name of the owner in the registry.

State law references: MCL 125.525.

SECTION 2. ACTION TO ENFORCE PROVISIONS OF THIS ARTICLE; INJUNCTIONS; PARTIES; TEMPORARY RELIEF; SERVICE OF COMPLAINT AND SUMMONS; ORDER; REMOVAL OF BUILDING; EXPENSES OF REPAIR OR REMOVAL.

(a) If the owner or occupant fails to comply with the order contained in the notice of violation, the Village of Martin may bring an action to enforce the provisions of this article and to abate or enjoin the violation.

(b) An owner or occupant of the premises upon which any violation exists may bring an action to enforce the provisions of this article in his own name. Upon application of the Village, or upon motion of the party filing the complaint, the Village may be substituted for, or joined with, the complainant in the discretion of the court.

(c) When the violation is uncorrected and creates an imminent danger to the health and safety of the occupants of the premises, or if there are not any occupants and the violation creates an imminent danger to the health and safety of the public, the Village shall file a motion for a preliminary injunction or other temporary relief appropriate to remove the danger during the pendency of the action.

(d) Owners and lien holders of record or who are found by the complainant upon

the exercise of reasonable diligence shall be served with a copy of the complaint and a summons. The complainant shall also file a notice of the pendency of the action in the office of the register of deeds for the county in which the premises are located.

(e) The court, having obtained jurisdiction, shall make such orders and determinations as are consistent with the objectives of this article. The court may enjoin the maintenance of any unsafe, unhealthy, or unsanitary condition, or any violations of this article, and may order the defendant to make repairs or corrections necessary to abate the conditions. The court may authorize the Village to make repairs or to remove the structure. When an occupant is not the cause of any unsafe, unhealthy, or unsanitary condition, or any violation of this article, and is the complainant, the court may authorize the occupant to correct the violation and deduct the cost thereof from the rent upon such terms as the court determines to be just. Whenever the court shall find that the occupant is the cause of any unsafe, unhealthy, or unsanitary condition, or any violation of this article, then the court may authorize the owner to correct the violation and assess the cost thereof against the occupant or his security deposit.

(f) No building shall be removed unless the cost of repair of the building will be greater than the state equalized value of the building.

(g) When the expenses of repair or removal are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The order may establish the priority of the lien and may provide that it shall be a lien senior to all other liens, except taxes and assessments; except that a mortgage of record having a recording date prior to all other liens of record shall retain its first priority if, at the time of recording of that mortgage or at any time subsequent thereto, a certificate of compliance as provided for in this article is in effect on the subject property. The order may also specify the time and manner for foreclosure of the lien if not satisfied. A true copy of the order shall be filed in the office of the register of deeds for the county where the real property is located within ten (10) days after entry thereof in order to perfect the lien granted in the order.

(h) This article does not preempt, preclude, or interfere with the authority of the Village to protect the health, safety, and general welfare of the public through article, charter, or other means.

State law references: MCL 125.534.

SECTION 3. DANGEROUS BUILDING; PROHIBITION.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in this article.

State law references: MCL 125.538.

SECTION 4. DANGEROUS BUILDING; DEFINITION.

As used in this article "dangerous building" means a building or structure 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 approved fire code of the Village.

(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 catastrophe and does not meet the minimum requirements of this ordinance or a building code of the Village 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 this article or a building code of the Village.

(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, 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, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance' or an unlawful or immoral ordinance.

(8) 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 or building official 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.

(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 one hundred eighty (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, being Sections 339.2501 to 339.2515 of the Michigan Compiled Laws. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:

a. A building or structure as to which the owner or agent does both of the following:

1. Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period of one hundred eighty (180) consecutive days. The notice shall be given to the Village law enforcement agency 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 article or a building code of the Village.

b. A secondary dwelling of the owner that is regularly unoccupied for a period of one hundred eighty (180) days or longer each year, if the owner notifies the Village law enforcement agency [where] the dwelling is located [and] that the dwelling will remain unoccupied for a period of one hundred eighty (180) consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the Village Police not more than thirty (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.

State law references: MCL 125.539.

SECTION 5. NOTICE OF DANGEROUS CONDITIONS; HEARING OFFICER; SERVICE.

(a) Notwithstanding any other provision of this article, 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.

(b) The notice shall be served on the owner, agent, or lessee that is registered with the building official of the Village. If an owner, agent, or lessee is not registered under this article, the notice shall be served on each owner or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.

(c) 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.

(d) The hearing officer shall be appointed by the Village President to serve at his

or her 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 of the Village shall not be appointed as hearing officer. The Village shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

(e) 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 ten (10) days before the date of the hearing included in the notice.

State law references: MCL 125.540.

SECTION 6. HEARING; DETERMINATION TO CLOSE PREMISES OR TO ORDER BUILDING DEMOLISHED, MADE SAFE, OR PROPERLY MAINTAINED; NONCOMPLIANCE WITH ORDER, ENFORCEMENT, HEARING; COST OF COMPLIANCE AS LIEN, PRIORITY.

(a) At a hearing prescribed by this article, the hearing officer shall take testimony of the Village, the owner of the property, and any interested party. Not more than five (5) days after completion of the hearing, the hearing officer shall render a decision either closing the premises or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(b) 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 as defined in this article, 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.

(c) If the owner, agent, or lessee 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 five (5) days after noncompliance by the owner and request that necessary action be taken to enforce the order. If the Village council has established a board of appeals, 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 this article.

(d) The Village council or the board of appeals of the Village, shall fix a date not less than thirty (30) days after the hearing prescribed in this article for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent, or lessee in the manner prescribed in this article 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 of the Village shall either approve, disapprove, or modify the order. If the Village council or 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 sixty (60) days after the date of the hearing under this subsection. In the case of an order of demolition, if the Village council or the board of appeals of the Village 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 twenty-one (21) days after the date of the hearing under this subsection.

(e) 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 article shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.

(f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor 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 thirty (30) days after mailing by the assessor of the notice of the amount of the cost, the Village shall have a lien for the cost incurred by the Village to bring the property into conformance with this article. 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, being Sections 211.1 to 211.157 of the Michigan Compiled Laws.

(g) In addition to other remedies under this article, 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.

State law references: MCL 125.541.

SECTION 7. APPEALS.

An owner aggrieved by any final decision or order of the Village council or the board of appeals under this ordinance may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

State law references: MCL 125.542.

SECTION 8. BOARD OF APPEALS DESIGNATION AND APPOINTMENT.

For purposes of this article the "board of appeals" shall be the members of the board of construction appeals of the Village of Martin as have been appointed by the Village council.

SECTION 9. RIGHTS OF ACTION UNDER THIS ARTICLE.

The enumeration of rights of action under this article shall not limit or derogate rights of action at common law, under any other ordinance of the Village of Martin, or under other state or federal laws.

State law references: MCL 125.537.

SECTION 10. PUBLICATION

This Ordinance shall be published in a paper that has general circulation for the Village of Martin and County of Allegan, qualified under state law to publish legal notices, within one week after its adoption and the same shall be recorded in the Village of Martin's Book of Ordinances, and such recording authenticated by the signatures of the Village President and Village Clerk.

SECTION 11. INVALIDITY

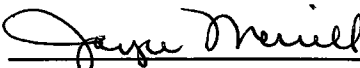
If any section, part of section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid, the remaining provisions hereof shall nevertheless remain in full force and effective.

SECTION 12. EFFECTIVE DATE

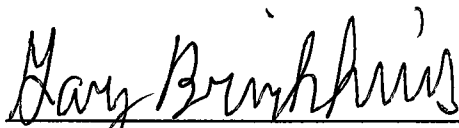
This Ordinance shall be effective after publication and shall take effect on _____
December 1, 2008.

Adopted on November 10, 2008

ATTEST:



Joyce Merrill
Village Clerk



Gary Binkhuis
Village President

I hereby certify that the foregoing ordinance was, on November 17, 2008,
published in the Penasee Globe, a newspaper circulated in the Village
of Martin.

Joyce Merrill
Joyce Merrill
Village Clerk

Dated: November 17, 2008.

VILLAGE OF MARTIN ALLEGAN COUNTY, MICHIGAN NOTICE OF ADOPTION OF ORDINANCE NO. 56

To: The Residents and Property Owners of the Village of Martin, Allegan County, Michigan, and Any Other Interested Persons:

PLEASE TAKE NOTICE that at a regular meeting of the Village Board of Trustees held on November 10, 2008, the Board adopted Ordinance No. 56, an Ordinance to Regulate Dangerous Buildings.

ORDINANCE NO. 56: AN ORDINANCE TO REGULATE DANGEROUS BUILDINGS

SECTION 1. REGISTRY OF OWNERS AND PREMISES.

A registry of owners and premises shall be maintained by the building official of the Village. The owners of any structure containing a rental apartment or rental unit, a multiple dwelling or rooming house containing units which will be offered to let, or to hire, for more than six (6) months of a calendar year, shall register their names and places of residence. If the premises are managed or operated by an agent, the agent's name and place of business shall be placed with the name of the owner in the registry.

SECTION 2. ACTION TO ENFORCE PROVISIONS OF THIS ARTICLE; INJUNCTIONS; PARTIES; TEMPORARY RELIEF; SERVICE OF COMPLAINT AND SUMMONS; ORDER; REMOVAL OF BUILDING; EXPENSES OR REPAIR OR REMOVAL.

If the owner or occupant fails to comply with the order contained in the notice of violation, the Village of Martin may bring an action to enforce the provisions of this article and to abate or enjoin the violation. An owner or occupant of the premises upon which any violation exists may bring an action to enforce the provisions of this article in his own name. If there is imminent danger to the health and safety of the public, the Village may obtain a preliminary injunction. And, the court make such orders and determinations as are consistent with the objectives of this article. No building shall be removed unless the cost of repair of the building will be greater than the state equalized value of the building. When the expenses of repair or removal are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property.

SECTION 3. DANGEROUS BUILDING; PROHIBITION.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in this article.

SECTION 4. DANGEROUS BUILDING; DEFINITION.

As used in this article "dangerous building" means a building or structure that has one or more of the following defects or is in one or more of the following conditions:

A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the Village; 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 catastrophe; A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property; The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used; 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; A building or structure is vacant, dilapidated, and open at door or window; A building or structure remains unoccupied for a period of one hundred eighty (180) consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker;

SECTION 5. NOTICE OF DANGEROUS CONDITIONS; HEARING OFFICER; SERVICE.

Notwithstanding any other provision of this article, 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. The notice shall be served on the owner, agent, or lessee that is registered with the building official of the Village. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building.

SECTION 6. HEARING; DETERMINATION TO CLOSE PREMISES OR TO ORDER BUILDING DEMOLISHED, MADE SAFE, OR PROPERLY MAINTAINED; NONCOMPLIANCE WITH ORDER, ENFORCEMENT; HEARING; COST OF COMPLIANCE AS LIEN, PRIORITY.

At a hearing prescribed by this article, the hearing officer shall take testimony of the Village, the owner of the property, and any interested party. Not more than five (5) days after completion of the hearing, the hearing officer shall render a decision either closing the premises or ordering the building or structure demolished, otherwise made safe, or properly maintained. The Village council or board of appeals of the Village, shall fix a date not less than thirty (30) days after the hearing prescribed in this article for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent, or lessee in the manner prescribed in this article of the time and place of 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 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 article shall be reimbursed to the Village by the owner.

SECTION 7. APPEALS.

An owner aggrieved by any final decision or order of the Village council or the board of appeals under this ordinance may appeal the decision or order to the circuit court.

SECTION 8. BOARD OF APPEALS DESIGNATION AND APPOINTMENT.

For purposes of this article the "board of appeals" shall be the members of the board of construction appeals of the Village of Martin as have been appointed by the Village council.

SECTION 9. RIGHTS OF ACTION UNDER THIS ARTICLE.

The enumeration of rights of action under this article shall not limit or derogate rights of action at common law, under any other ordinance of the Village of Martin, or under other state or federal laws.

SECTION 10. PUBLICATION.

A summary of this Ordinance shall be published in a paper that has general circulation for the Village of Martin and County of Allegan.

SECTION 11. INVALIDITY.

If any section, part of section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid, the remaining provisions hereof shall nevertheless remain in full force and effective.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall be effective after publication and shall take effect on December 1, 2008.

PLEASE TAKE FURTHER NOTICE that the full text of this Ordinance may be examined or obtained at the Village of Martin Office or by requesting same from the Village Clerk, Joyce Merrill at (269) 672-7777.

VILLAGE OF MARTIN
Joyce Merrill, Clerk
P.O. Box 234
1586 S. Main Street
Martin, MI 49070

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Globe
Nov. 17, 2008*