

ORDINANCE NO. 38

**AN ORDINANCE OF THE VILLAGE OF BIG LAKE, MISSOURI, REGARDING DANGEROUS BUILDINGS AS NUISANCES AND THEIR REMOVAL OR RECONDITIONING, PROVIDING FOR THEIR DEMOLITION OR REPAIR BY THE VILLAGE AND PERTAINING TO INSURANCE PROCEEDS FROM DAMAGE OR LOSS TO BUILDINGS OR STRUCTURES.**

**BE IT ORDAINED** by the Board of Aldermen of the Village of Big Lake, Missouri, as follows:

**Section 1. Purpose and Scope.**

It is the purpose of this ordinance to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this ordinance shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the Village of Big Lake, Missouri.

**Section 2. Dangerous buildings defined.**

All buildings that are detrimental to the health, safety or welfare of the residents of the village and that have any or all of the following defects shall be deemed "dangerous buildings"

- (1) One whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;
- (2) One which exclusive of its foundation shows thirty-three percent (33%) or more of damage or deterioration to the supporting member or members, or fifty percent (50%) of damage or deterioration to the nonsupporting, enclosing or outside walls or covering;
- (3) One which has improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- (4) One which has been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Village of Big Lake;
- (5) One which is so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those occupying the building, structure or appurtenance;
- (6) One having light, air and sanitation facilities which is inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;
- (7) One having inadequate facilities for egress in case of fire or panic or one having insufficient stairways, elevators, fire escapes or other means of communication;
- (8) One with parts which are so attached that they may fall and injure members of the public or property; and,

(9) One which because of its inadequate construction, deterioration or damages, or for any reason is unsafe, unsanitary or dangerous for the purpose for which it is being used or unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Village .

**Section 3. Dangerous buildings declared nuisance.**

All dangerous buildings, as defined by Section 2, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

**Section 4. Standards for repair, vacation or demolition.**

The following standards shall be followed in substance by the Board of Aldermen or its officer in ordering repair, vacation or demolition of any dangerous building:

(1) If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be ordered repaired.

(2) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.

(3) In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be demolished.

(4) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of this village or statute of the State of Missouri, it shall be repaired or demolished.

**Section 5. Building inspector.**

All County Sheriff's Deputies and the Sheriff and all other village employees or members of the Board of Aldermen so designated by the Board shall be building inspectors within the meaning of this ordinance.

**Section 6. Duties of building inspector; procedure and notice.**

The building inspector shall have the duty under this ordinance to:

(1) Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.

(2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this ordinance, and the building inspector determines that there are reasonable grounds to believe that such building is dangerous.

(3) Inspect any building, wall or structure reported by the fire or police departments of this Village as probably existing in violation of this ordinance.

(4) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had

by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Holt County, of any building found by him to be a dangerous building within the standards set forth in Section 2.

The notice required shall state that:

(a) The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this ordinance.

(b) The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;

(c) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the county wherein the land is located, may, at his own risk, repair, vacate, or demolish the building and clean up the property or have such work done, provided that any person notified under this subsection to repair, vacate or demolish any building, or clean up the property shall be given such reasonable time not exceeding thirty (30) days to commence the required work.

(5) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in the above subsection.

(6) Report in writing to the Board of Aldermen the noncompliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.

(7) Appear at all dangerous building hearings conducted by the Board of Aldermen and testify as to the condition of dangerous buildings.

(8) Immediately report to the Board of Aldermen concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The Board of Aldermen may direct that such building be marked or posted with a written notice reading substantially as follows:

*"This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Holt County. It is unlawful to remove this notice until such notice is complied with."*

#### Section 7. Building Commissioner.

The Board of Aldermen shall act in the role as a building commissioner overseeing the terms of this ordinance.

**Section 8. Duties of the Board of Aldermen as building commissioner.**

The Board of Aldermen shall have the power pursuant to this ordinance to:

(1) Supervise all inspections required by this ordinance, and cause the building inspector to make inspections and perform all the duties required of him by this ordinance. Upon receiving a complaint or report from any source, that a dangerous building exists in the Village, the Board of Aldermen shall cause an inspection to be made forthwith. If the Board of Aldermen deems it necessary to the performance of his their duties and responsibilities imposed herein, the Board of Aldermen may request an inspection and report be made by any other Village department or retain services of an expert whenever the Board of Aldermen deems such service necessary.

(2) Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest ins aid building to commence work of reconditioning or demolition within the time specified by this ordinance or upon failure to proceed continuously with work without unnecessary delay, the Board of Aldermen shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least ten (10) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the Board of Aldermen on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particular set forth in the building inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

(3) Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 2.

(4) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Board of Aldermen shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this village or the owner of any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the village of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

(5) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Board of Aldermen shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant.

**Section 9. Costs of Abatement.**

(1) If the Board of Aldermen issues an order whereby a building or structure found and declared to be a nuisance is demolished or repaired, the cost of performance shall be certified to the Village Clerk or officer in charge of finance, who shall cause a special tax bill therefor against the property to be prepared and collected by the Village Collector or other official collecting taxes, except as provided in subsection (2) of this Section. At the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid *unless* the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the village and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Section 429.010 to 429.360 Revised Statutes of Missouri.

(2) As to damage or loss to a building or other structure caused by or arising of any fire, explosion or other casualty loss, if an order is issued by the Board of Aldermen as provided in this ordinance and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five (25) percent of the insurance proceeds, as set forth in subdivisions a and b of this subsection. This subsection shall apply only to a covered claim payment that is in excess of fifty (50) percent of the face value of the policy covering a building or other structure:

(a) The insurer shall withhold from the covered claim payment up to twenty five (25) percent of the covered claim payment, and shall pay such moneys to the Village to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this ordinance.

(b) The village shall release the proceeds and any interest that has accrued on such proceeds received under subdivision a of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after the receipt of such insurance moneys, unless the village has instituted legal proceedings under the provisions of this ordinance, all moneys in excess of that necessary to comply with the provisions of this subsection for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

(3) If there are no proceeds of any insurance policy as set forth in subsection 2 of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of issuance shall be lien on the property and a personal debt against the property owner until paid.

(4) Subsection 2 of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

(5) Subsection 2 of this Section does not make the village a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(6) The Board of Aldermen may certify in lieu of payment of all or part of the covered claim under subsection 2 of this Section that it has obtained satisfactory proof that the insured has

removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Board of Aldermen shall issue a certificate within thirty (30) days after the receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection 2 of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided form this subsection.

**Section 11. Appeal.**

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the receipt of the order of the Board of Aldermen, appeal such decision to the circuit court of the county wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

**Section 12. Emergencies.**

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the building inspector shall report such facts to the Board of Aldermen and the Board of Aldermen may cause the immediate repair, vacation or demolition of such dangerous building and clean up of the property. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as otherwise provided under this ordinance.

**Section 13. Violations, penalties for disregarding notices or orders.**

(1) The owners of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by the Board of Aldermen or building inspector shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00) for each offense, and each and every day such failure to comply continues shall be deemed a separate offense.

(2) The occupant or lessee in possession, who fails to comply with any notice to vacate, and anyone having an interest in said building as shown by the land records of the Recorder of Deeds for the county the land lies in are under a legal duty to repair, anyone who fails to repair said building in accordance with any notice given as provided for in this Ordinance, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00) for each offense, and each and every day such failure to comply continues shall be deemed a separate offense.

**Section 14. Effective date.**

This Ordinance shall be in full force and effect from and after its date of passage.

**Section 15. Repeal Ordinances in Conflict.**

All prior ordinances or portions thereof in conflict herewith are hereby repealed and this ordinance shall supersede and such ordinances.

Read two (2) times and passed this 13 day of February, 1996.

Vice Lyle Thompson  
President, Board of Aldermen

Attest:

Diana Phillips  
Village Clerk

Approved this 13 day of February, 1996

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Chairman

Attest:

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Village Clerk