

**AN ORDINANCE ADOPTING CHANGES TO THE DANGEROUS BUILDING ORINANCE PROVISIONS FOR THE VILLAGE OF CENTERTOWN, MISSOURI.**

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CENTERTOWN, MISSOURI, AS FOLLOWS:

**Section 1:** Section 10 of the Village Code of the Village of Centertown, Missouri is hereby amended by deleting the existing text and substituting the following text:

**10.00. Purpose and scope**

It is the purpose of this Section is to provide a just, equitable and practicable method for the repair, 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 Centertown, Missouri.

**10.05. 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. Those with interior walls or other vertical structural members that 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. Those that, exclusive of the foundation, show thirty-three (33) percent or more damage or deterioration of the supporting member or members, or fifty (50) percent damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.

4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the Village.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Village.
9. Those which are uninhabited and are open at door, window, wall or roof.
10. Those under construction upon which no substantial work shall have been performed for ninety (90) days immediately next to the time that a notice shall issue under Section 10.25 of this Ordinance for the completion or demolition thereof.
11. Those in the process of demolition upon which no substantial work shall have been performed for a period of fourteen (14) days immediately following the time a notice shall issue to complete the demolition thereof under Section 10.25.
12. Those containing therein substantial accumulations of trash, garbage or other materials susceptible to fire, constituting or providing a harboring place for vermin or other obnoxious animals or insects or in any way threatening the health of the occupants thereof or the health of persons in the vicinity thereof.
13. Those which have parts thereof which are so attached or deteriorated that they may fall upon public ways or upon the property of others or may injure members of the public or the occupants thereof.

14. Those buildings built in violation of any safety provision of the building code, electrical code, mechanical code, minimum housing standards code, or the fire prevention code of the Village, or used in violation thereof.
15. Those which have been removed from their foundations, footings or slab, for the purpose of moving and which have not been moved within thirty (30) days after said process was begun.

#### **10.10. Dangerous buildings declared nuisance**

All dangerous buildings, as defined by Section 10.05, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

#### **10.15. Standards for repair, vacation or demolition**

The following standards shall be followed in substance by the building inspector and the building commissioner 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.

#### **10.20. Building inspector**

All Village officers, Village employees, or other persons so designated by the Chairman of the Board of Trustees shall be building inspectors within the meaning of this ordinance.

## 10.25. Duties of building inspector; procedure and notice

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

1. Perform inspection of property by: observing areas of the premises in plain view from public property and by inspecting other areas of the property after obtaining permission of the property owner or his/her agent or obtaining an administrative search warrant as provided in Section 10.35 and Section 8 of the Village Code.
2. 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 place a dangerous building when reasonable grounds exist to believe that any such building is dangerous.
3. 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.
4. Inspect any building, wall or structure reported by the fire department or Marshall of this Village as probably existing in violation of this ordinance.
5. 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 Cole County, of any building found by him to be a dangerous building as defined in Section 10.05.

The notice required shall state that:

- A. The owner must repair, 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 person having an interest in said building as shown by the land records of the Recorder of Deeds of Cole county, 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, and clean up the property shall be given such reasonable time not exceeding thirty (30) days to commence the required work;
- D. Such notice shall include 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 this subsection;

6. Report in writing to the Village building commissioner the noncompliance with any notice to vacate, repair, demolish, and clean up the property or upon the failure to proceed continuously with the work without unnecessary delay;

7. Appear at all hearings conducted by the building commissioner and testify as to the condition of dangerous buildings.

8. Immediately report to the building commissioner concerning any building found by him to be inherently dangerous and that he determines to be a nuisance per se. The building commissioner 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 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 Cole County. It is unlawful to remove this notice until such notice is complied with." Provided, however, that the order by the building commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this ordinance to the notice and hearing prescribed herein.

### **10.30. Building commissioner**

The Chairman of the Board of Trustees shall act as building commissioner under this ordinance.

### **10.35. Duties of the building commissioner**

The building commissioner shall have the following powers pursuant to this ordinance:

1. Request an administrative search warrant as provided in Section 8 of the Village Code as deemed necessary for the performance of his duties or those of the building inspector.
2. 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 building commissioner shall cause an inspection to be made forthwith. If the building commissioner deems it necessary to the performance of his duties and responsibilities imposed herein, the building commissioner may request an inspection and report be made by any other Village department or retain services of an expert.
3. Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of repair or demolition within the time specified by this ordinance or upon failure to proceed continuously with work without unnecessary delay, the building commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter. Written notice shall be given 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 Cole County to appear before the building commissioner 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, or vacated and repaired or demolished in accordance with the statement of particulars 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.

4. 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 10.05.
5. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the building commissioner 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 Cole County to repair, or vacate and repair, 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 or any person having an interest in said building as shown by the land records of Cole County may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the Village of a 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.
6. If the owner, occupant, mortgagee, lessee, agent or other person(s) fails to comply with the order within thirty (30) days, the building commissioner shall cause such building or structure to be repaired, vacated and repaired, or vacated and demolished and the property cleaned up as the facts may warrant; and the building commissioner shall certify the cost of the work borne by the Village for such repair, vacation and/or demolition or clean up to the Village Clerk as a special assessment represented by a special tax bill against the real property affected. Said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) 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 Sections 429.010 to 429.360 Revised Statutes of Missouri. Except as provided in Section 10.35.7, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall accrue interest at the rate of nine percent (9%) per annum until paid.
7. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the building commissioner as provided in Section 10.35.6

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 may have 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 Section 10.35.6. If the Village has proceeded under the provisions of Section 10.35.6, all moneys in excess of that necessary to comply with the provisions of Section 10.35.6 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.
- C. If there are no proceeds of any insurance policy as set forth in this subsection, 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 date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- D. This subsection shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- E. This subsection 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.



- F. The building commissioner may certify in lieu of payment of all or part of the covered claim under this subsection 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 building commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to this subsection. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this subsection.

#### **10.40. Appeal**

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of Cole County, may, within thirty (30) days from the receipt of the order of the building commissioner, appeal such decision to the Circuit Court of Cole County pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

#### **10.50. 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, or vacated and repaired, or demolished and the property is cleaned up, the building inspector shall report such facts to the building commissioner and the building commissioner may cause the immediate repair, vacation or demolition of such dangerous building and clean up of the property. The costs of such emergency repair, or vacation and repair, or demolition of such dangerous building shall be collected in the same manner as provided in Section 10.35.6.

#### **10.60. Violations; disregarding notices or orders**

1. The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 10.65.
2. Any person removing any notices provided for in this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 10.65.

**10.65. Penalties**

Any person violating the provisions of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500). Each day that a person fails to comply with an order of the building commissioner may be deemed a separate offense.

**10.70. Transfer of property**

If at any time after notice has been given as provided in Section 10.25, until such time as the deficiencies have been corrected as provided herein, the ownership of the property is transferred to another person or entity, the person or entity receiving the property shall be notified, by the person who received the original notice of the deficiency, of the pending action. In the event that such a transfer requires the Village to amend or re-file any petition, or recommence the notice procedures of this ordinance, the owner at the time of the original notice shall reimburse the Village for its costs in doing so including attorney's fees and costs.

**Section 3:** This ordinance shall be in full force and effect upon final passage and approval.

FIRST READING HELD: February 21, 2005.

SECOND READING HELD AND FINAL PASSAGE ON THIS 21<sup>st</sup> DAY OF February, 2005 BY THE FOLLOWING VOTE:

	<u>Aye</u>	<u>Nay</u>
Cathy Colbert	<u>X</u>	_____
John Doyle	<u>X</u>	_____
Gayle Garvin	<u>X</u>	_____
Doug Heineman	<u>X</u>	_____
Curtis B. Holzer	<u>X</u>	_____

Curtis B. Holzer  
Chairman, Board to Trustees

Attest:  
Michelle L. Wagner  
Village Clerk