

**VILLAGE OF ELBERTA**  
**Ordinance No. 44 of 2023**

AN ORDINANCE TO AMEND THE VILLAGE CODE CONCERNING  
DANGEROUS STRUCTURES

THE VILLAGE OF ELBERTA ORDAINS:

**Section 1. Amendment of Chapter 9048.**

Chapter 9048 of the Village Code is hereby amended to read in its entirety as follows:

CHAPTER 9048 – DANGEROUS STRUCTURES

**Section 1. “Dangerous Structure” Defined.**

As used in this Ordinance a “dangerous structure” means a building or structure that has one (1) or more of the following defects or is in one (1) or more of the following conditions:

- (a). 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 the building code enforced within the Village for a new building or structure.
- (b). A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (c). 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 the building code enforced within the Village.
- (d). 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 reasons, 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.
- (e). The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (f). The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and has become an attractive nuisance to children who might play in the building or structure to their danger.
- (g). The building or structure is vacant, dilapidated, and opened at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

- (h). A building or structure, or portion of a building or structure, above or below grade, which is not and cannot be used or occupied, either temporarily or permanently, as permitted under the building code for the State of Michigan, as amended, inclusive of all rules, codes and regulations pertaining thereto. This subsection (h) shall not apply to any building or structure for which has been issued a valid, pending zoning and building construction permit for ongoing construction.

**Section 2. Prohibition; Exception.**

No person, corporation, limited liability company, trust, partnership, or other legal entity shall own, occupy or maintain any dangerous structure within the Village. Provided, however, this section shall not apply to existing buildings or structures which are formally designated by the state of Michigan or the Village as historic buildings or structures, but only when such buildings or structures are judged by the village enforcement officials designated under Section 6 of this Chapter to be safe.

**Section 3. Notice.**

If a building or structure is found to be a dangerous structure, the Village shall give the owner of the building or structure written notice of the dangerous condition and thirty (30) days to demolish and remove the dangerous structure from the property or to repair the dangerous structure to make it safe. The notice may be personally delivered to the owner or mailed to the owner by first class mail at the address shown on the assessor's rolls.

**Section 4. Inspection.**

Village representatives shall have the right to inspect buildings or structures to determine violations of or compliance with this Ordinance. Village representatives may exercise this right to inspection by consent of the person having the right to possession of the building or structure or any part thereof, or by administrative search warrant.

**Section 5. Penalty/Civil Infraction.**

Any person who shall violate any provision of this Ordinance shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

**Section 6. Enforcement.**

The Village President or other person appointed by the Village Council is hereby designated as the authorized Village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

**Section 7. Nuisance.**

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

**Section 8. Injunctive Relief.**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

**Section 9. Abatement by Village.**

If a Court of competent jurisdiction finds the owner or occupant of a building or structure in violation of this Ordinance, the Court, in addition to ordering the owner or occupant to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe, may authorize the Village to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe. The Court, however, shall not authorize the Village to demolish the dangerous structure if the cost of repairing the building or structure to a safe condition is less than the state equalized value for the building or structure.

**Section 10. Cost Recovery; Lien.**

- (a). The costs incurred by the Village in demolishing the dangerous structure and removing it from the property or repairing the dangerous structure to a safe condition, including reasonable attorney fees, shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- (b). The owner or party in interest in whose name the property appears upon the last local tax assessment roll shall be notified by the assessor of the amount of the costs of the demolition or repair of the dangerous structure by first-class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by the assessor of the notice of the amount of the costs, the Village shall have a lien for the costs incurred by the Village to bring the property into compliance with this Ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The 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 state General Property Tax Act.

**Section 2. Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

**Section 3. Effective Date.**

This Ordinance shall become effective twenty (20) days after being enacted.

Ordinance No. 44 was adopted on the 21st day of September, 2023, by the Elberta Village Council as follows:

Motion by: Ken Holmes

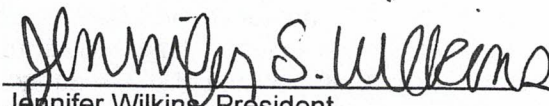
Seconded by: Brett McGregor

Yeas: Brett McGregor, Ken Holmes, Emily Votruba, and Jennifer Wilkins

Nays: None

Absent: Ryan Fiebing

  
Katherine A. Ralston, Clerk/Treasurer

  
Jennifer Wilkins, President

I certify that this is a true copy of Ordinance No. 44 that was adopted at a regular meeting of the Elberta Village Council on September 21, 2023 and published in the Benzie County Record Patriot on September 27, 2023.

Dated: Sept. 22, 2023

Katherine A. Ralston, Clerk