

BENZIE COUNTY
ORDINANCE NO. 2013-001

AN ORDINANCE TO ADOPT THE 2009 EDITION OF THE *INTERNATIONAL PROPERTY MAINTENANCE CODE*, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE, AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN BENZIE COUNTY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR.

RECITALS

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act, Public Act 230 of 1972, being MCL 125.1501 et seq, (the "Act") establishes one uniform Construction Code for the State of Michigan (the "Code"); and

WHEREAS, as authorized by the Act, Benzie County has assumed the responsibility for administering and enforcing the Act and the Code within all areas of the county except those where a city, village or township, in accordance with the Act, has assumed responsibility for administration and enforcement of the Code within its jurisdiction; an

WHEREAS, Section 4 of the Act provides that the Code consists of the following codes:

- 1) International Residential Code;
- 2) International Building Code;
- 3) International Mechanical Code;
- 4) International Plumbing code;
- 5) National Electrical Code;
- 6) Michigan Uniform Energy Code; and

WHEREAS, though not listed in the Act as one of the codes included within the Michigan Uniform Construction Code, section 101.4.5 of the International

Building Code, which is part of the Code, provides that the provisions of the International Property Maintenance Code "shall apply to existing structures and premises;" and

WHEREAS, MCL 46.11 provides, that a county board of commissioners may enact ordinances that relate to county affairs and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county; and

WHEREAS, specific enactment of an ordinance adopting the International Property Maintenance Code is within the authority of the County as the enforcing agency of the Code within Benzie County and, therefore, such enactment relates to county affairs; and

WHEREAS, specific enactment of an ordinance adopting the International Property Maintenance Code does not contravene the general laws of this state, but rather complements and is consistent with and contemplated by said laws; and

WHEREAS, because the County's jurisdiction and authority in this area is limited to those areas where local units such as a city, village or township have not assumed the role of administering and enforcing the Code;

NOW, THEREFORE,

BENZIE COUNTY HEREBY ORDAINS:

Section 1. Adoption of Property Maintenance Code.

That certain document, three (3) copies of which are on file in the office of the Benzie County Building Official, and one (1) official copy which is on file with the Benzie County Clerk, being marked and designated as the *International Property Maintenance Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of Benzie County, Michigan for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings

and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Benzie County Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. Additions, Insertions, Deletions and Changes.

The following sections are hereby revised:

- a) Section 101.1.

Insert: Benzie County, Michigan

- b) Section 103.5.

Change to read:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as established from time to time by resolution of the Benzie County Board of Commissioners.

- c) Section 106.3.

Change to read:

106.3. Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed responsible for civil infraction and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Prosecution of the civil infraction shall be subject to, and in accordance with, the provisions of Chapter 87 of the Michigan Revised Judicature Act, MCL 600.8701 et seq. The code official is the local official authorized to issue citations for violations of the Code.

- d) Section 111.2.

Change to read:

111.1. 2 Membership of Board. The construction code board of appeals appointed pursuant to the Code shall serve as the board of appeals for purposes of this Property Maintenance Code. The *code official* shall be an ex-officio member but shall have no vote on any matter before the board.

- e) Section 112.4.

Insert: not less than \$100.00; not more than \$500.00

- f) Section 302.4.

Insert: six (6) inches

- g) Section 304.14.

Insert: May 1 and November 1

- h) Section 602.3.

Insert: October 1 and May 1

- i) Section 602.4.

Insert: October 1 and May 1

Section 3. Unconstitutionality.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Benzie County Board of Commissioners hereby declares that it would have passed this ordinance, and each section,

subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses and phrases be declared unconstitutional.

Section 4. Publication.

The Benzie County Clerk is hereby authorized and directed to publish a notice of adoption of this ordinance in a newspaper of general circulation in the County.

Section 5. Effective Date.

This ordinance and the rules, regulations, provisions and requirements, orders and matters established and adopted hereby shall take effect on the day after the notice of adoption referenced in Section 4, above, is published as provided therein.

Adoption of the foregoing ordinance was moved by Walterhouse and supported by Tucker.

Voting for: Commissioners Bates, Griner, Kelley, Rineer, Tucker and Walterhouse

Voting against: Commissioner Tanner

The ordinance was declared adopted.


Donald Tanner, Chairman

Date of publication of Notice of Adoption: February 27, 2013

Effective date: February 28, 2013

CERTIFICATION STATEMENT AND CLERK'S SIGNATURE

I, Dawn Olney, as Benzie County Clerk and as Clerk to the Benzie County Board of Commissioners, do hereby certify that the foregoing Ordinance adopting the International Property Maintenance Code was duly adopted by the Benzie County Board of Commissioners at a regular meeting of said Board at which a quorum was present on the 19th day of February, 2013.

Date: February 19, 2013

A handwritten signature in cursive script that reads "Dawn Olney". The signature is written in black ink and is positioned above a horizontal line.

Dawn Olney, County Clerk and Clerk
to the Benzie County Board of
Commissioners