

VILLAGE OF CLIFTON

ABATEMENT OF PUBLIC NUISANCE

ORDINANCE No. 13-01-3

§ 1 - DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OWNER. The owner of record of the premises in fee or lesser estate therein, a mortgagee or vendee in possession, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person, firm or corporation in control of a building or his authorized agent.

PUBLIC NUISANCE. Any fence, wall, garage, shed, house, building, dwelling, structure, tree, pole, smokestack or any excavation, basement, cellar, well cistern or sidewalk subspace, or part thereof, in the condition in which the same is permitted to be or remain, endangers the health, life, limb or property or causes any hurt, harm, inconvenience, discomfort, damage or injury to any one or more persons in the village in any one or more of the following particulars:

- By reason of being detrimental to the general health of the community.
- By reason of being a hazard.
- By reason of being unsafe for occupancy, or use on, in, upon, about or around the above premises.
- By reason of continued vacancy thereby resulting in a lack of reasonable or adequate maintenance of structures and grounds, and causing deterioration and a blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which the structure is situated.

§ 2 - STRUCTURE DISREPAIR PROHIBITED.

No owner of a building, dwelling or other structure within the boundaries of the village shall permit the same to remain in such an advanced state of disrepair as to endanger the health, safety and welfare of the residents of the community or so as to be a public nuisance by reason of its condition.

§ 3 - INSPECTION BY BUILDING INSPECTOR

The Building Inspector shall have free access at any reasonable hour, upon obtaining a search warrant when a building is occupied, to make inspection, including the right to photograph the premises, examination and survey any building, dwelling, structure or location located within the village where he has probable cause to believe the building, dwelling or structure or location is unsafe or insecure and thereby dangerous to the residents of the village.

§ 4 - ACTION BY BUILDING INSPECTOR FOR REPAIR

- Upon determination by the Building Inspector that any Building, dwelling or structure is in such a state of disrepair by reason of defective or inadequate plumbing or sanitary facilities; faulty or defective electrical wiring; internal accumulation of debris, filth, rubbish or garbage; general deterioration in structure or by reason of age, neglect, exposure to the elements or vandalism; failure of the exterior enclosure causing exposure to the elements; general deterioration of the structure; partial damage to the structure by reason of fire, windstorm, or other calamity; or by reason of damage or deterioration to the foundation, so as to endanger health, safety and welfare of the residents and public and is therefore, a public nuisance, he shall notify in writing the Village Solicitor of his determination that a building, dwelling, or structure is in an advanced state of disrepair pursuant to §2 (*Structure Disrepair Prohibited*.) The Building Inspector shall provide the street address of the property to the Village Solicitor. The Village Solicitor may, if he deems necessary, cause a title insurance commitment to be issued by a licensed title insurance agent in the name of the Village. The Village Solicitor, upon receipt of the title opinion or lawyer's opinion, shall notify the Building Inspector of all owners of record.
- Upon receipt of the Village Solicitor's opinion of title, the Building Inspector shall direct the owner of such a building, dwelling, or structure, in writing by certified mail at the last known address of the owner, to effect the repairs necessary to correct the violation, or, if the owner is unknown or cannot be located, by publishing a notice to effect such repairs as are necessary to correct the violation, in a newspaper of general circulation in the community or posted conspicuously on public bulletin locations, and also posted conspicuously on the building, dwelling, or structure, for a period of no less than two consecutive weeks. The building inspector shall prepare an affidavit for each owner of such building, dwelling, or structure, stating the date and manner of notification that the building, dwelling or structure is in an advanced state of disrepair. The affidavit shall be notarized and made part of the permanent file with the Village Clerk.
- The Owner must notify the Building Inspector and obtain proper permits or variances from the Village before any repairs are made. Once a permit or variance has been obtained, all work shall be completed within 60 days or by written agreement with the Building Inspector.

§5 APEAL BY OWNER

Within 30 days after receipt of such notice or the last publication in a newspaper or public posting of the same, the owner may appeal a finding by the Building Inspector that any such building, dwelling or structure is in such a state of disrepair as to endanger the health, safety and welfare of the public. Village Council shall act as the Appeal Board.

§6 HEARING OF APPEAL BY COUNCIL

Upon receipt of written appeal, Council shall set the matter down for hearing at the next meeting of Council. After receiving notice of appeal, the owner shall have the opportunity to appeal before Council and to present evidence that the building, dwelling, or structure is not in a state of disrepair for any reason set forth in § 2 as to endanger the health, safety, and welfare of the public and therefore is not a public nuisance.

§7 ABATEMENT BY VILLAGE DEMOLITION OF STRUCTURE

(A) If no appeal is filed from the finding of the building Inspector within a 30 day period or Council affirms the findings of the Building Inspector and determines the building, dwelling, or structure involved is a public nuisance, the Building Inspector shall request from the Mayor that an ordinance be prepared and presented to Council authorizing the Mayor or his designee, 60 days after earliest date permitted by law, to enter upon such premises and the owner shall permit him entry to abate the nuisance by demolition and removal of the structure or by taking any other such action as might be required.

(1) Within 5 days of the passage of the ordinance authorizing the Mayor or his designee to abate such nuisance, the Building Inspector shall send by certified mail a copy of the ordinance to all owners of record.

(2) Immediately before the entry to abate the nuisance by demolition and removal of the structure or by taking other such action as might be required, the Building Inspector shall request from the Village Solicitor an updated title opinion. Upon receipt from the Village Solicitor of the updated opinion of title, the Building Inspector shall certify by a written, notarized affidavit to the Mayor that all owners have been notified of the pending abatement. Further, the affidavit must state that the Building Inspector has sent all owners a copy of the ordinance authorizing the Mayor or his designee to abate the nuisance.

(3) Only after the Mayor has received the notarized affidavit of the Building Inspector, stating that all owners have been notified of the abatement, can the Mayor authorize the abatement to proceed. The Mayor shall authorize the abatement of the nuisance in writing, containing an acknowledgement by the Clerk/Treasurer that funds are available for the abatement of the nuisance. The Mayor or Clerk/Treasurer might request from the Village Solicitor that he obtain a title insurance policy. The cost of the title insurance policy shall become part of the cost of the abatement.

(B) In abating such nuisance the Mayor or his designee might call upon any other department of the Village for whatever assistance might be necessary or might by private contract obtain the abatement thereof. The cost of such private contract shall be paid from Village funds specifically authorized by Council in order to abate such public nuisances.

(C) In abating such nuisance the Mayor or his designee may go to whatever extent necessary to complete the abatement of the same and the cost of the abatement action shall be recovered from the owner in the following procedures:

(1) The owner or owners shall be billed directly by certified mail for the cost of the abatement. The bill for the cost of the abatement shall be paid within 60 days after receipt of the bill.

(2) If not paid within the 60 day period, it might be certified to the county auditor. The Clerk/Treasurer or his designee might certify the total cost of such abatement, together with a proper description of the lands, to the county auditor who shall place the cost upon the tax duplicate. The costs are a lien upon such lands from and after the date of entry. The cost shall be collected as other taxes and returned to the Village or the Village might recover the cost by any other legal means available to it.

§8 APPEAL TO COURT

If the Mayor is informed that the owner has appealed Council's decision to the common pleas court or any other court having jurisdiction of such appeal the matter will be held in abeyance until further order of the court.