

ORDINANCE NO. 01-14

**AN ORDINANCE SPECIFYING UNSAFE BUILDINGS AND ESTABLISHING
PROCEDURES FOR REMOVAL/REPAIR OF SAID BUILDINGS AND
DECLARING AN EMERGENCY AND REPEALING ANY PREVIOUS LEGISLATION.**

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1. NUISANCE PROHIBITED.

No owner (the term "owner" in this Ordinance includes: the owners of record of the premises of fee or lesser estate therein, a mortgagee, vendee in possession, land contract purchaser, assignee of rents, receiver, executor, administrator, trustee, or lessee, as determined by an examination of the public records of Mercer County, Ohio, or any other person, firm, or corporation in control of a building, or their duly authorized agent(s)) of a building or structure within the boundaries of the Village of Rockford, Ohio (hereinafter "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 Village or so as to be a public nuisance by reason of its condition.

2. RIGHT OF ENTRY.

The Village Administrator shall henceforth have the duties of Building Inspector which duties are provided by this Ordinance, and he or his designee shall have free access at any reasonable hour, upon showing appropriate identification when a building is occupied, to make inspection, examination and survey of any building, dwelling, or structure located within the Village, where he has probable cause to believe the building, dwelling, or structure is unsafe or insecure and thereby dangerous to the residents of the Village.

3. DANGEROUS AND UNFIT STRUCTURES DEFINED.

Any structure which, in the determination of the Building Inspector has any of the following defects shall be deemed to be a dangerous or unfit structure:

- (A) Those which interior or exterior walls or other vertical structural members list, lean or buckle.

- (B) Those which show damage to or deterioration of the supporting member or members or damage to or deterioration of the non-supporting enclosing or outside walls or covering, including the roof.
- (C) Those which have been so damaged by decay, deterioration, fire, wind or other elements, or other causes, as to be dangerous to the life, safety or general health and welfare of the occupants or the general public.
- (D) Those which are so dilapidated, decayed, unsafe or unsanitary, or which so fail to provide the amenities essential to decent living or occupancy that they are unfit for human habitation, use or occupancy.
- (E) Those which have parts thereof so insecurely attached that they may fall and injure persons or property, or those which, as a whole, may fall and injure persons or property.
- (F) Those which lack proper roof or window covering, allowing water to enter the structure.
- (G) Those which, because of their general condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of any occupants or the general public.
- (H) Those which have been vacant, closed-up, or boarded-up for a period of at least two (2) years.
- (I) Those which the Building Inspector determines for any reasons not included herein to be insecure, unsafe, structurally defective, or otherwise unfit for habitation, use or occupancy.

4. DANGEROUS STRUCTURES DECLARED NUISANCES.

All dangerous and/or unfit structures as described in Section 3 above, are hereby declared to be public nuisances and shall be repaired or demolished in accordance with an order from the Building Inspector.

5. REPAIR OR DEMOLITION OF DANGEROUS AND/OR UNFIT STRUCTURES.

- (A) If a dangerous and/or unfit structure can reasonably be repaired so that it will no longer be in violation of the provisions of this Ordinance, it shall be ordered repaired, subject to the provisions of subsection (B) hereof.
Whenever the Building Inspector determines that the cost of such repairs would exceed one hundred percent (100%) of the current value of such structure as determined by the real property taxation valuation records maintained by the County Auditor, such repairs shall be presumed unreasonable and it shall be presumed for the purposes of this Ordinance that such structure is a public nuisance and shall be ordered demolished.
- (B) If the Building Inspector determines that a dangerous and/or unfit structure cannot be reasonably repaired, or that the structure has been unoccupied, closed, or boarded-up for a period of at least two (2) years, an order shall be issued to demolish the structure.
- (C) All doors, windows and other openings shall be covered with a minimum of one-half inch thick painted structural sheeting material, closely butted at the edges and maintained. Such coverings may be installed to fit over the exterior casing. However, there shall not be edges or cracks that will serve as handholds for tearing

off of the same. All coverings shall be anchored by nails or screws and shall not be capable of being removed without tools. Any porch floor, railing, post or roof, or any other attachment to the structure, in danger of falling or causing injury by being decayed or having holes that could cause tripping or falling, shall be repaired and maintained. All loose debris and discarded boards and lumber shall be kept clear of the premises.

6. FIRE DAMAGED STRUCTURE REMOVAL; REPAIR SECURING FUND.

The Village is hereby authorized to utilize the procedure described in Ohio R.C. 3929.86(C) and (D), whereby no insurance company doing business in the State shall pay a claim of the named insured for fire damage to a structure located within the Village where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000) unless there is compliance with the following procedures:

- (A)(1) When the loss agreed to between the named insured or insureds and the company or companies exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies, in accordance with Ohio R.C. 715.26(F) or Ohio R.C. 505.86, shall transfer from the insurance proceeds to the Building Inspector in the aggregate Two Thousand Dollars (\$2,000.00) for each Fifteen Thousand Dollars (\$15,000.00), and each fraction of that amount, of a claim, or if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, then the insurance company or companies shall transfer from the insurance proceeds the amount specified in estimate.
- (2) The Building Inspector or his designee shall establish the criteria for securing such structure and/or such property.
- (3) The transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the Village shall be disbursed in accordance with the policy terms.
- (4) The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Building Inspector shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the Village has not commenced to remove, repair or secure the building or other structure.
- (B)(1) Upon receipt of proceeds by the Village as authorized by this section the Building Inspector shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Village pursuant to Ohio R.C. 715.261 or Ohio R.C. 505.86.
- (2) When transferring the funds as required in Ohio R.C. 3929.86(C), an insurance company shall provide the Village with the name and address of the named insured or insureds, whereupon the Village shall contact the named insured or insureds, certify that the proceeds have been received by the Village, and notify them that the following procedures will be followed: The fund shall be returned to the named insured or insureds when repairs, removal or securing of the building or other

structure have been completed and the required proof has been received by the Building Inspector, if the Village has not incurred any costs for such repairs, removal or securing. However, the fund shall be returned to the named insured or insureds no later than sixty (60) calendar days after the Building Inspector receives the required proof that the building or other structure has been repaired, removed or secured as to prevent unauthorized entry into the structure and/or onto the property itself. If the Village has incurred any costs for the repairs, removal or securing of the building or other structure, such costs shall be paid from the fund, and if excess funds remain, the Building Inspector shall transfer the remaining funds to the named insured or insureds no later than sixty (60) calendar days after all such costs incurred by the Village have been paid. Nothing in this section shall be construed to limit the ability of the Village to recover any deficiency under Ohio R.C. 715.261 or Ohio R.C. 505.86. Required proof, for the purpose of this section, shall mean that the building or structure has been secured in accordance with the criteria established by the Building Inspector or his designee to prevent unauthorized entry in such building or structure and/or onto said property.

- (3) Nothing in this section shall be construed to prohibit the Village and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.
- (C) The Building Inspector of the Village is hereby designated as the officer authorized and directed to carry out the duties of this section. The Building Inspector shall file a certified copy of this Ordinance with the Superintendent of Insurance of the State.

7. DUTIES OF THE BUILDING INSPECTOR; NOTICES.

The Building Inspector or his duly authorized assistant or designee shall:

- (A) Inspect or cause to be inspected, as necessary, any building in the Village for the purpose of determining whether any conditions exist which render such buildings dangerous and/or unfit buildings, as defined in Section 3 above;
- (B) Inspect any building, wall or structure about which complaints have been filed by any person to the effect that such building, wall or structure is or may be existing in violation of this Ordinance;
- (C) Notify in writing the owner, occupant, lessee, mortgagee or agent of the same and all other persons having an interest, as shown by the land records of the County Recorder or County Treasurer or County Auditor in any building found to be a dangerous and/or unfit building, as defined in Section 3 above, that:
 - (1) The owner shall vacate, repair or demolish such building in accordance with the terms of the notice and this Ordinance;
 - (2) The occupant or lessee shall either vacate such building or have it repaired in accordance with the notice, in which latter case, such occupant or lessee may remain in possession; and
 - (3) The mortgagee, agent or other persons having an interest in such building may, at his own risk, repair, vacate or demolish such building or have such work done, provided that any person so notified shall be given such reasonable time, not exceeding sixty (60) calendar days, as may be necessary to do or have done the work required by the notice.

- (D) Set forth in the notice provided for in subsection (C) hereof, a description of the building or structure deemed a dangerous building, a statement of the particulars which make the building or structure a dangerous building and an order requiring that such building or structure be made to comply with the terms of this Ordinance within such length of time, not exceeding sixty (60) calendar days, as is reasonable;
- (E) Give advice concerning procedure for appeal;
- (F) Appear at all hearings conducted by the Appeals Board and testify as to the condition of dangerous buildings;
- (G) Place a notice on all dangerous buildings reading as follows:

“This building has been found to be a dangerous and/or unfit building by the Building Inspector of the Village of Rockford, Ohio. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in such building as shown by the land records of the County Recorder or County Treasurer or County Auditor of Mercer County, Ohio. It is unlawful to remove this notice until such notice is complied with.”
- (H) Adequately photograph such dangerous and/or unfit buildings; and
- (I) Cause such work to be done as may be necessary to render such structure or part thereof temporarily safe to passerby, adjacent properties and occupants, pending the vacation, repair or demolition thereof, whether or not the inspector has previously issued any order of vacation therefor. In lieu of attempting to make such structure or part temporarily safe, the Building Inspector may, when necessary for the public safety, temporarily close such adjacent properties and any affected streets and other public ways and areas and prohibit the use thereof.

The costs for such work shall be collected in the manner provided in Section 9 below.

8. APPEALS.

- (A) Any person affected by a notice and order issued in connection with the enforcement of this Ordinance or other provisions of law shall be granted a hearing on the matter before the Appeals Board, provided that such person files in the office of the Building Inspector a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for mitigation of the order. Such petition shall be filed within ten (10) calendar days after the date of the notice and order served. The Building Inspector shall transmit to the Appeals Board all the papers pertaining to the action appealed from.
- (B) After the hearing, the Appeals Board, by a majority vote, shall sustain, modify or reverse the decision of the Building Inspector, depending on its findings regarding compliance with the provisions of this Ordinance or other provisions of law. The petitioner and the Building Inspector shall be notified in writing of such findings.

9. FAILURE TO COMPLY; REMEDY OF VILLAGE.

- (A) If the owner fails to comply with the findings provided for in Section 8 above, within ten (10) calendar days thereof, the Building Inspector shall cause the

building or structure involved to be repaired, vacated or demolished, as required, according to standards provided in Section 5. He shall, with the assistance of the Law Director, cause the costs of such repair, vacation or demolition to be charged as a lien against the land on which the building exists or existed, to be added to the tax duplicate as an assessment to be levied as a special tax against the land upon which the building exists or existed or to be recovered in a suit at law against the owner. However, the Building Inspector may, in cases where it is desirable and where any delay caused thereby will not be dangerous to the health, morals, safety or general welfare of the Village residents, request the Law Director to take legal action to force the owner to make all necessary repairs or to demolish the building.

- (B) If the owner fails, neglects or refuses to comply with the notice to repair, rehabilitate or demolish any building or structure or portion thereof, the Building Inspector shall proceed with the work specified in such notice. The owner shall be personally liable for the cost of such work. In the event that such cost is not paid, the amount thereof shall be transmitted to Council who shall cause the same to be paid and levied as a tax assessment against the property.
- (C) Any cost incurred under subsection (B) hereof shall be paid out of the General Fund of the Village of Rockford, Ohio. Such cost shall be charged to the premises involved as a special assessment on the land on which the building or structure is located and shall be collected in the manner provided for special assessments or by the taking of a judgment against the owner.
- (D) The Building Inspector shall report to the Law Director the names of all persons failing to comply with the notice and order provided for in Section 7 above or the findings provided for in Section 8 above. In abating such nuisance, he may go to any extent necessary to complete the abatement thereof. Should it be practicable to sell or salvage any material derived in the abatement, he may sell such material at a private or public sale at the best price obtainable and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be deposited in the General Fund. Any difference between the amount so received and the cost of the abatement shall be levied as an assessment against the property by Council, certified to the County Auditor and collected as any other assessment by the Village. Should the proceeds of such sale exceed the cost of abatement, the surplus shall be paid to the owner of the premises when his proper claim therefor is established. In abating such nuisance, the Building Inspector may, by private contract, obtain the abatement thereof, if such private contract may be let without any expense to the Village.

10. DUTIES OF THE DIRECTOR OF LAW.

The Law Director or his assistant shall:

- (A) Prosecute all persons failing to comply with the terms of the notices provided for in Section 7 and the findings provided for in Section 8;
- (B) Appear at all hearings before the Appeals Board in regard to dangerous and/or unfit buildings, when his presence is requested or deemed necessary;
- (C) Bring suit to collect all liens, assessments or costs incurred by the Village in repairing, vacating or demolishing dangerous buildings, unless such liens, assessments or costs are collected by assessment on the real estate; and

- (D) Take such other legal action as is necessary to carry out the terms and provisions of this Ordinance.

11. EMERGENCY CASES.

In cases where there appears to be imminent danger to the life or safety of any person unless a dangerous building, as defined in Section 3, is immediately repaired, vacated or demolished, the Building Inspector shall cause the immediate repair, vacation or demolition of such dangerous building. The cost of such emergency repair, vacation or demolition shall be collected in the manner provided in Section 9.

12. ABSENCE OF OWNER FROM VILLAGE.

In all cases except emergency cases, persons having an interest in real estate upon which a dangerous and/or unfit building is situated, including but not limited to the owner, shall be notified by one of the methods provided in the Ohio Rules of Civil Procedure. In the event that the address of a person cannot be ascertained with reasonable diligence, publication of notice shall be made once per week for two (2) consecutive weeks in a newspaper of general circulation within the Village and as otherwise set forth in the Ohio Rules of Civil Procedure. If a person is served with notice by publication, a copy of the Building Inspector's order shall be posted in a conspicuous place on the dangerous and/or unfit building to which it relates. Notice by publication shall be complete after the expiration of fifteen (15) calendar days from the last publication.

13. CODE NOT EXCLUSIVE.

This Ordinance shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the Village, but shall be deemed as an enlargement of any authority existing by virtue of State law or any ordinance heretofore enacted by Council.

14. SEPARABILITY.

It is the intention of Council that each separate provision of this Ordinance be deemed independent of all other provisions hereof. It is further the intention of Council that if any provision of this Ordinance is declared invalid, all other provisions shall remain valid and enforceable.

Adopted this ____6th____ day of _____May_____, 2014.

Amy Joseph
Mayor

Lisa Kuhn
Clerk

Judy Koesters
Law Director

nuisance building ordinance/rockford/mr