

THE VILLAGE OF LARUE, OHIO
ORDINANCE NUMBER ~~12~~ - 2013-83

**AN ORDINANCE DEFINING DANGEROUS BUILDINGS, DECLARING A NUISANCE,
INSPECTION THEREOF, STANDARDS FOR REPAIR, VACATION OR
DEMOLITION, NOTICE TO VACATE, TIME FOR COMPLIANCE, ACTION BY
VILLAGE OF LARUE, OHIO, FIRE INSURANCE AND INSURANCE PROCEEDS,
AND DECLARING SAME TO BE AN EMERGENCY MEASURE**

WHEREAS, Council for the Village of LaRue, Ohio, has determined that the Village needs a way of handling dangerous buildings, the demolition thereof, and assessment of demolition and removal costs to the real estate taxes, and

WHEREAS, the Mayor is in full agreement with the Members of Council.

BE IT ORDAINED by the Council of the Village of LaRue, County of Marion, State of Ohio:

Section #1: DEFINITIONS: That the following buildings shall be deemed DANGEROUS BUILDINGS:

- (A) Those whose walls, floors, foundations or other structural parts are so out of plumb level or original position as to be unable to satisfactorily perform their intended structural function;
- (B) Those which are so dilapidated, decayed, or overloaded as to be unable to provide the basic elements of shelter or safety required for human habitation;
- (C) Those which constitute a fire hazard because of their construction, exposure or lack of maintenance;
- (D) Those which are so unsanitary as to constitute a health hazard to their occupants or to the public; and

- (E) Those which have been damaged to an extent of 50% or more of their fair market value.
- (F) Which is vacant resulting in lack of reasonable or adequate maintenance of structures and grounds and causing deterioration and blighting influence on nearby properties and 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 such building is situated or which are vacant and are not secured, sealed or in such a condition to prevent persons from entering the premises.
- (G) Is available to or is frequented by malefactors or disorderly persons who are not lawful occupants.

Section #2: DECLARATION OF NUISANCE: All dangerous buildings are hereby declared to be public nuisances and shall be vacated, repaired or demolished as provided in this Ordinance.

Section #3: INSPECTION OF BUILDINGS: The Mayor and/or Village Clerk and/or Council or those on their behalf are hereby authorized and directed to make inspection of any building within the Village of LaRue, Ohio, to determine whether it is a dangerous building within the terms of **Section #1, supra**. For the purpose of making such inspection and upon showing appropriate identification, the Mayor and/or Village Clerk and/or Council and/or those on their behalf are authorized to enter, examine and survey at any reasonable hour all buildings existing in the Village of LaRue, Ohio. The owner, occupant or person in charge of any building, upon being shown proper identification, shall give the Mayor and/or Village Clerk and/or Council and/or those on their behalf free access to such building at any reasonable hour for the purpose of such inspection.

Section #4: STANDARDS FOR REPAIR, VACATION, OR DEMOLITION:
The following standards shall be followed in substance by the Mayor and/or Village Clerk and/or Council or those on their behalf in ordering repair, vacation, or demolition of a dangerous building:

- (A) If it is in such condition as to make it dangerous to the health or safety of its occupants, it shall be ordered to be immediately vacated.

- (B) If it can reasonably be repaired so that it will no longer violate the terms of this Ordinance, it shall be ordered repaired.
- (C) It shall be demolished if:
 - (1) It is 50% or more damaged or decayed or deteriorated from its original structure, or
 - (2) It cannot be repaired so that it no longer violates the terms of this Ordinance, or
 - (3) It is vacant and has been inadequately maintained causing deterioration and blighting influence on nearby properties and 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 such building is situated.
 - (4) It is a fire hazard existing or erected in violation of the terms of this Ordinance.

Section #5: NOTICE TO VACATE, REPAIR, OR DEMOLISH: When a building is found to be a dangerous building, the Mayor and/or Village Clerk shall notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property, as shown by the records of Marion County, Ohio, as to what action is required to be taken under the provisions of **Section #4, supra.** The notice shall set forth a description of the building, a statement of the particulars which make it a dangerous building and, if to be repaired, what repairs are required to render it for occupancy.

The required notice shall be served either personally or by mailing a copy to such owner at the tax mailing address in the county tax records with a certificate of mailing. However, if neither of the above methods can be accomplished by reasonable attempts, then said notice shall be published in a newspaper of general circulation in the County of Marion once each week for two consecutive weeks.

A notice shall also be placed on the building.

Section #6: APPEAL: Any person upon whom notice has been served as provide in **Section #5, supra,** may appeal to the Council for the Village of LaRue, Ohio.

Said owner shall, within ten (10) days after completion of service of such notice, make a demand in writing to the Office of the Mayor and/or Village Clerk requesting a hearing on the question of whether in fact a public nuisance exists.

Upon receipt, the Mayor and/or Village Clerk shall inform the Council for the Village of LaRue, Ohio, and ensure a hearing is held within thirty (30) days following receipt of the demand by the owner.

Section #7: TIME FOR COMPLIANCE:

- (A) If the notice provide in **Section #5, supra**, requires the building to be vacated, such vacation shall occur within ten (10) days after service of the notice is completed, except as otherwise provide for in **Section #8(B)(1), infra**, unless there is immediate danger of failure or collapse, in which case the building shall be vacated forthwith. If the notice requires repair or demolition, the same shall be accomplished within sixty (60) days after service of notice is completed.
- (B) The Council is authorized to take immediate action for demolitions.

Section #8: ACTION BY VILLAGE OF LARUE, OHIO:

- (A) If the owner or occupant of a dangerous building fails or refuses to vacate it after notice is served and within the time for compliance, the Mayor and/or Village Clerk shall institute proceedings in the Marion Municipal Court pursuant to **Section #10, infra**.
- (B) If the owner or occupant of a dangerous building fails or refuses to repair a dangerous building after notice and within the time for compliance, the Mayor and/or Village Clerk shall post a notice at conspicuous places on and in the building stating that the building is a dangerous building and shall not be occupied or used for any purpose until it has been repaired and approved by the Mayor and/or Village Clerk or his/her authorized agent. Such notice shall not thereafter be removed by anyone other than the Mayor and/or Village Clerk or his/her authorized agent.
 - (1) Whenever the Mayor and/or Village Clerk and/or Council and/or those on their behalf finds a structure to be a public nuisance and in non-compliance pursuant to **Section #1(F), supra**,

notwithstanding **Section #7(A), supra**, he/she shall, after fourteen (14) days after the notice required pursuant to **Section #5, Supra**, having been served, abate the dangerous condition through any available public agency or contract or arrangement of private persons, and any and all costs incurred related thereto, if not paid by the owner within ten (10) days after demand for payment is made, shall be certified by the Clerk-Treasurer for the Village of LaRue, Ohio, to the Marion County Auditor to be placed upon the tax duplicate as a lien upon such premises, to be collected as other taxes and returned to the Village of LaRue, Ohio, as provide in R.C. §715.261.

- (C) If the owner of a dangerous building fails or refuses to demolish it after notice and within the time for compliance, the Mayor and/or Village Clerk is authorized to take the necessary measures for accomplishing its demolition and removal. He/she shall advertise for bids for a contract for such demolition for a period of two weeks in a newspaper of general circulation within the County of Marion, Ohio, and shall present such bids to the Council for the Village of LaRue, Ohio, for its acceptance or rejection. Only the lowest and best bid may be accepted by the Council for the Village of LaRue.
 - (1) The costs incurred by the Village of LaRue, Ohio, in accomplishing the demolition and removal shall be paid from the Village of LaRue Treasury out of the proper fund as designated by the ordinance or resolution authorizing the contract for demolition. The Village of LaRue, Ohio, may appropriate to its own use any materials obtained in demolishing the building to compensate it for any part of the cost of demolition.
 - (2) The total costs of such demolition, whether such costs are incurred due to the use of employees, materials and equipment of the Village of LaRue, Ohio, or by contract for labor, materials and equipment, or both, including the cost of service or publication of notice, together with a proper description of the premises, shall be certified by the Clerk-Treasurer of the Village of LaRue, Ohio, to the Marion County Auditor to be placed by him/her on the tax duplicate as a lien upon such premises, to be collected as other taxes and returned to the Village of LaRue, Ohio, all as provide in R. C. §715.261.

(D) This section shall be liberally construed to accomplish its purpose, including but not limited to, deter the commission of arson and other criminal activity, to discourage the abandonment of property and to prevent urban blight and deterioration.

Section #9: PROCEDURE FOR PAYMENT OF INSURANCE PROCEEDS

(A) No insurance company doing business in the State of Ohio shall pay a claim of a named insured for fire damage to a building or structure located within the Village where the amount recoverable under all applicable policies exceeds five thousand dollars (\$5,000), unless the following procedures are followed:

- (1) When the loss, agreed to by the insured(s) and the insurance company or companies, equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies shall transfer to the Fiscal Officer of the Village from the insurance proceeds either:
- (2) In the aggregate, two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000) and each fraction of that amount, of a claim, or
- (3) If at the time that such loss is agreed to, the named insured(s) have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or structure, the amount specified in the estimate.

(B) Proof of payment by any insurance company or companies in compliance with this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment made to the Village.

(C) An insurance company making payment of policy proceeds under this section shall have the full benefit of such payment including all rights of subrogation and of assignment.

(D) This section shall not be construed to prohibit the Village and the named insured(s) from entering into an agreement that permits the transfer of

funds to the name insured(s) if some other reasonable disposition of the damaged property has been negotiated.

- (E) Upon receipt of insurance proceeds as authorized by this section, the Fiscal Officer shall place the proceeds in a separate fund to be used solely as security against the total cost incurred by the Village for removing, repairing or securing a building or structure damaged by fire loss.
- (F) When transferring funds to the Village pursuant to this section, an insurance company shall provide the Village with the name and address of the named insured(s). The Village shall then contact the named insured(s), certify that the proceeds have been received by the Village and notify them that the following procedures shall be followed:
 - (1) The funds shall be returned to the named insured(s) no later than sixty (60) days after the Fiscal Officer receives proof that repairs, removal or securing of the building or structure has been completed, provided that the Village has not incurred any costs for such repairs, removal or securing.
 - (2) If the Village has incurred any costs for repairs, removal or securing of the building or structure, the costs shall be paid from the fund, and if excess funds remain, the Village shall transfer the remaining funds to the insured(s) no later than sixty (60) days after all such costs have been paid.
- (G) Nothing in this section shall be construed to limit the ability of the Village to recover any deficiency under Ohio R.C. 715.261.

Section #10: PENALTY: Whoever violates any provision of this Ordinance is guilty of a misdemeanor of the fourth degree which is punishable by not more than 30 days in jail and/or a fine of not more than \$250.00. On each subsequent offense within one (1) year after the first offense, such person is guilty of a misdemeanor of the third degree, which is punishable by not more than 60 days in jail and/or a fine of not more than \$500.00.

Section #11: This Ordinance is hereby declared to be an emergency measure necessary for the public peace, health and safety of the Citizens of the Village of LaRue, Ohio, and for the further reason that the Village of LaRue, Ohio, needs to deter the commission of arson and related crimes, to discourage the abandonment of

property and to prevent urban blight and deterioration, and as such emergency measure this Ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives a two-thirds majority vote of all members elected to Council; otherwise, it shall become effective at and after the earliest period allowed by law.

APPROVED:

P. Milton Lightfoot
Mayor, Village of LaRue

1st Reading 1/7/13
2nd Reading 2/4/13
3rd Reading 3/4/13

ATTESTED:

Mary Price
Clerk, Village of LaRue