

AN ORDINANCE REGARDING NUISANCES IN THE FORM OF DANGEROUS BUILDINGS, STRUCTURES AND WALLS.

Whereas the Board of Trustees of the Village of Oakwood, Clay County, Missouri, has deemed it necessary to set forth the regulations and procedures for dealing with nuisances within the Village of Oakwood as they pertain to dangerous buildings, structures, and walls.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF OAKWOOD AS FOLLOWS:

SECTION 1: PURPOSE AND SCOPE

It is the purpose of this Ordinance to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures or walls that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public and this Ordinance shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the Village of Oakwood, Missouri.

SECTION 2: DANGEROUS BUILDING OR STRUCTURE OR WALL DEFINED

All buildings, structures or walls that are detrimental to the health, safety or welfare of the residents of the Village and that have any or all of the following defects shall be deemed "dangerous buildings":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the Village.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.

6. Those that are uninhabited and are open at door, window, wall or roof.
7. Inhabited, for purposes of this ordinance, means that a person has continuously lived in the home for at least 90 consecutive days during each calendar year, otherwise the home is uninhabited.
8. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
9. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
10. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
11. Those because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Village.
12. Those under construction upon which no substantial work shall have been performed for ninety (90) days immediately next to the time that a notice shall issue for completion or demolition thereof.
13. Those in the process of demolition upon which no substantial work shall have been performed for a period of fourteen (14) days immediately following the time a notice shall issue to complete the demolition thereof.

SECTION 3: DANGEROUS BUILDINGS DECLARED A NUISANCE

All dangerous buildings, as defined by Section 2, are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

SECTION 4: STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Building Inspector and the Village Official in ordering repair, vacation or demolition of any dangerous building:

1. If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this Ordinance, it shall be ordered repaired. Any such repairs shall be made in accordance with the ordinances of the Village of Oakwood and the minimum standards set forth in the current IBC International Building Code.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Ordinance, it shall be demolished.

4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Ordinance or any ordinance of this Village or Statute of the State of Missouri, it shall be repaired or demolished.
5. In all cases where the conditions constituting the public nuisance are such that the costs to repair the building or structure are, at the discretion of the Board, so significant that it requires demolition, it shall be ordered demolished by the Board; in the event that it is not demolished by the owner, the Village shall have the authority to abate the nuisance by demolition.

SECTION 5: DUTIES OF THE VILLAGE OFFICIAL

The Village Official shall be appointed by the Board and shall have the power pursuant to this Ordinance to:

1. Supervise all inspections required by this Ordinance, perform all the duties required of him/her by this Ordinance. Upon receiving direction from the Board that a dangerous building exists in the Village, the Village Official shall cause an inspection to be made forthwith by a qualified Building Inspector. If the Village Official deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Village Official may retain services of an expert whenever he/she deems such service necessary and obtains approval from the Board.
2. Upon direction from the Board, notify in writing as specified in Section 7, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Clay County of any building found by him/her to be a dangerous building within the standards set forth in Section 4.
3. Report in writing to the Board the non-compliance with any notice to vacate, repair, demolish, and clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.
4. Upon failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this Ordinance or upon failure to proceed continuously with work without unnecessary delay, the Village Official shall hold a hearing giving the affected parties full and adequate hearing on the matter.
5. Make written findings to the Board of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of this Article.
6. In the event any building found by the Board to be inherently dangerous and that is determined to be a nuisance per se, the Board may direct the Village Official that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the Board of Trustees of The Village of Oakwood, Missouri. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Clay County. It is unlawful to remove this notice until such notice is complied with."

Nothing provided in the order of the Village Official, the posting of said notice, nor any provision provided herein, shall be construed to deprive any persons entitled thereto by this Ordinance to the notice and hearing prescribed herein.

SECTION 6: DUTIES OF THE BUILDING INSPECTOR

Any person designated by the Village Official shall be Building Inspector(s) within the meaning of this Ordinance. The Building Inspector has the duty under this Ordinance to:

1. Upon direction from the Village Official, inspect or cause to be inspected, whenever necessary, all residential, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building.
2. Inspect any building, wall or structure reported by any Fire Department Official serving the Village or Village Official.
3. Appear at all hearings conducted by the Village Official and testify as to the condition of dangerous buildings.

SECTION 7: SERVICE OF NOTICE

When directed by the Board following the Board's determination of the existence of a dangerous building, the Village Official shall serve a notice upon the persons interested in any building or structure, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure as shown by the Recorder of Deeds of Clay County and shall be signed by the Chairman of the Board of Trustees.

1. Service of notice: The notice shall be served, if the party or parties to be served reside in the Village, by a handing of the notice to the person to be served by anyone competent to be a witness or by leaving the notice at the usual place of abode with a member of the household over the age of fifteen (15) years and competent to receive notice. If the person to be served shall not reside in the Village or shall have absented himself/herself from the Village or concealed himself/herself so that personal service may not be made as herein provided for and if his/her address shall be known, then service shall be made by posting a copy of such notice in a conspicuous place on the building or structure to which it relates and by certified mail, return receipt requested; but if his/her address shall not be known, the service

of notices shall be by posting and by publication. The publication shall contain the full text of the notice and shall be published at least once a week for three (3) consecutive weeks on the same day of the week in some newspaper of general circulation in the appropriate County. The time specified for the hearing or for the commencement of work or for any other thing to be done shall be scheduled at least thirty (30) days after the date of the first (1st) publication of notice.

2. The notice provided for in this Section shall include:
 - a. A description of the building or structure deemed dangerous
 - b. A statement of the particulars that make the building or structure a dangerous building
 - c. An order requiring the designated work to be commenced within the time provided for in the above Subsection.
 - d. The notice shall also state that:
 - i. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Ordinance;
 - ii. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;
 - iii. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Clay County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done, provided that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property shall be given such reasonable time not exceeding thirty (30) days to commence the required work from the date of notice to said person.

SECTION 8: FAILURE TO COMPLY WITH NOTICE-HEARING

1. Whenever there shall be a failure to obey a notice to abate a public nuisance issued by not commencing work in the time specified in said notice or there shall be a failure to proceed continuously with the work required therein without unnecessary delay, the Village Official shall call and have a full and adequate hearing before the Board of Trustees upon the matter giving all affected parties at least thirty (30) days' written notice of the hearing. Any party may be represented by counsel and all parties shall have an opportunity to be heard and present such evidence as shall be relevant to a determination of:

- a. Whether or not the building or structure involved is a public nuisance under the terms of this Ordinance;
 - b. Whether the procedure required by this Ordinance shall have been substantially followed; and
 - c. Whether or not the abatement order of the Village Official was reasonable and within the standards of this Article.
2. All testimony shall be under oath and a written record of the hearing shall be made by a reporter to be employed by the Village, the cost of which shall be paid by the Village should the proceeding be eventually held against the Village and by the owner, if it should not. In the latter case the cost of such reporting shall be a lien upon the lot, tract or parcel of land upon which the building or structure stands and shall be added to the cost of performance for demolition or repair, in the event the Village be required to perform that function.
3. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Board of Trustees shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the County wherein the land is located to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified shall have the privilege of either repairing or vacating and repairing said building if such repair will comply with the ordinances of this Village, or the owner or any person having an interest in said building as shown by the land records of the County wherein the land is located may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the Village of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

SECTION 9: TAXATION AND BILLING FOR WORK PROCURED BY VILLAGE- ENFORCEMENT OF TAX BILLS

If the owner, occupant, mortgagee or lessee fails to comply with the order outlined in Section 7 within thirty (30) days, the Board shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant:

1. The Village Official shall certify the cost of the work borne by the Village for such repair, vacation or demolition or cleaned up to the Village Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the Village and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo.

2. Except as provided in Subsection (3) of this Section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; interest on the unpaid balance of said assessment shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be paid at the maximum rate per annum allowable by law on unpaid balance of special assessment. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable.
3. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the Board as provided in Subsection (1) of this Section and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds as set forth in Subdivisions (A) and (B) of this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
 - a. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment and shall pay such monies to the Village to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.
 - b. The Village shall release the proceeds and any interest that has accrued on such proceeds received under paragraph (a) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after the receipt of such insurance monies, unless the Village has instituted legal proceedings under the provisions of Subsection (1) of this Section. If the Village has proceeded under the provisions of Subsection (1) of this Section, all monies in excess of that necessary to comply with the provisions of Subsection (1) of this Section for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.
4. If there are no proceeds of any insurance policy as set forth in Subsection (3) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
5. Subsection (3) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

6. No provision of this Section shall make the Village a party to any insurance contract and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
7. The Village Official may certify in lieu of payment of all or part of the covered claim under Subsection (3) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Village Official shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (3) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this Subsection.
8. The Village Official, upon approval of the Board, shall have the discretion to determine the appropriateness of removal, repair or other action to make the premises safe and secure, including but not limited to, declaring the premises unsafe and upon failure of the owner to comply with the Order, and proper notice, to take action to enforce the lien by sale of the property.

SECTION 10: APPEALS UNDER ADMINISTRATIVE REVIEW ACT

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of the County wherein the land is located may, within thirty (30) days from the receipt of the order of the Board, appeal such decision to the Circuit Court of Clay County, pursuant to the procedure established in Ordinance 536, RSMo.

SECTION 11: EMERGENCIES

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Village Official shall report such facts to the Board and the Board may direct the Village Official to cause the immediate repair, vacation or demolition of such dangerous building and clean up of the property. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 9.

SECTION 12: VIOLATIONS-DISREGARDING NOTICE OR ORDERS

1. The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Board shall be guilty of an ordinance violation and upon conviction shall be punishable as set forth in Section 13 herein.
2. Any person removing any notices provided for in this Ordinance shall be guilty of an ordinance violation and upon conviction shall be punished in accordance with Section 13 of this Ordinance.


SECTION 13: PENALTIES

Any person violating the provisions of this Ordinance is guilty of an ordinance violation and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) or by imprisonment of not more than ninety (90) days, or by both fine and imprisonment. Each day that a person fails to comply with an order of the Board may be deemed a separate offense.

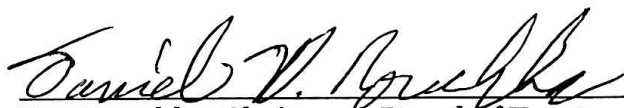
SECTION 14: RIGHT TO PETITION FOR INJUNCTION


In addition to the remedies set forth in this Ordinance, the Village may petition the Circuit Court of Clay County to enjoin any nuisance or threat to the public health, safety or welfare. The remedies set forth herein are cumulative and not exclusive and the Village may seek any legal or equitable remedy at its disposal, regardless of whether it has exhausted any other remedy available to it under this Ordinance.

Passed this 17 day of AUGUST, 20 17.


Dan Rouchka, Chairman, Board of Trustees,
Village of Oakwood, Clay County, Missouri

Approved this 17 day of AUGUST, 20 17.


Dan Rouchka, Chairman, Board of Trustees,
Village of Oakwood, Clay County, Missouri


Elizabeth Rouchka, Village Clerk