

**VILLAGE OF CHAUNCEY
STATE OF OHIO
ORDINANCE 2021-5**

**PROCEDURES FOR CONDEMNATION AND DEMOLITION OF
STRUCTURES WHICH CONSTITUTE A PUBLIC NUISANCE**

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1. Definitions.

A. "Structure unit for human occupancy" means a structure that is unsafe, or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment, or because its location constitutes a hazard to its occupants or to the public.

B. "Unreasonable repairs" means when the cost of repair to a structure would exceed one hundred percent (100%) of the County Auditor's true value of such structure; such repairs shall be presumed unreasonable.

C. "Unsafe equipment" means any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid or containers, or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that a structure is unsafe or unfit for human occupancy or use.

D. "Unsafe structure" means one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable condition that it is likely to partially or completely collapse.

2. Condemnation.

When a structure or part thereof is found to be unsafe, or when a structure or part thereof, is found unfit for human occupancy or use, it may be condemned pursuant to the provisions of this ordinance, and may be placarded and vacated. A proper affidavit shall be prepared by the Village Administrator and such action shall be recorded in the County Recorder's Office and cross-referenced to the deed to the property. The structure or part thereof shall not be reoccupied without written approval from the Village Administrator. Unsafe equipment shall be placarded and placed out of service.

3. Closing of vacant structures.

If a structure or any part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the Village Administrator may post a placard of condemnation on the premises and may order the structure closed up so it will not be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Village Administrator shall cause it to be closed and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien against such real estate.

4. Notice and orders.

A. Notice to Owner or Occupants - When a property or part thereof has been condemned, the Village Administrator shall give notice to the owner and to the occupants of the intent to placard and to vacate the property or to order equipment out of service.

B. Form of Notice - The notice to owner shall: (1) Be in writing; and (2) Include a description of the real estate sufficient for identification; and (3) Include a statement of the reason why it is being issued; and (4) Include a correction order allowing a reasonable time for repairs and improvements but in no cases shall the time period exceed sixty (60) days; and (5) Include an explanation of the owner's right to seek modification or withdrawal of the notice by written petition to Village Council.

C. Service on Owner - Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally, or by leaving at the usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof, or by certified or registered mail addressed to the owner at the last known address with return receipt requested, or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting of a copy thereof in a conspicuous place in or about the structure affected by such notice, and at least one (1) publication of such notice in a local newspaper of general circulation at least once a week for three (3) consecutive weeks.

D. Service on Occupant - When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after noncompliance shall be stated. In no cause shall this time period exceed sixty (60) days. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

5. Placarding.

- A. Placarding of Structure - After the condemnation notice has been served and the compliance period expired, the Village Administrator may post on the premises, structure or parts thereof, or on defective equipment, a placard bearing the words:

WARNING This property has been determined by the Village of Chauncey to be unfit for human habitation. It shall be unlawful for this building to be rented, leased or occupied from the date of this notice or until all repairs have been made in a manner approved in writing by the Village Administrator, subject to occupants being given a reasonable time thereafter to vacate. Mutilation, unauthorized removal or defacing of this placard shall be in violation punishable under the Village of Chauncey ordinances.

- B. Prohibited Use - Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or person responsible for the premises who shall let anyone occupy placarded premises shall be liable for the penalties provided by this ordinance.
- C. Removal of Placard - The Village Administrator shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Village Administrator shall be subject to the penalties provided by this ordinance.

6. Re-occupancy of the building.

No structure which has been condemned and placarded as unfit for human habitation or use shall again be used until written approval has been secured from the Village Administrator. The Village Administrator shall remove the placard when written notice has been received from the owner and inspection confirms that the defects which resulted in the placard have been eliminated, and shall also file an affidavit with the County's Recorder Office to that effect.

7. Demolition of buildings.

- A. Council Action - When it is determined that a building is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and that it would be unreasonable to repair the same, the Village Council may, through motion and vote, determine that the building is a public nuisance and to have the building razed and removed, or if it can be made safe by repairs, to repair and make safe and sanitary.
- B. Demolition Order - The order shall specify a time not to exceed sixty (60) days in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or an agent where an agent is in charge of the building upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner or a holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the

building and by publishing it once each week for three (3) successive weeks in a local newspaper of general circulation.

- C. Restraining Actions - Any person affected by an order of demolition may, within ten (10) working days after service of such order, apply to a court of record for an order restraining the Village from razing or removing such structure or parts thereof. The court shall determine whether the demolition order is reasonable and if found reasonable, shall dissolve the restraining order. If the court finds the order unreasonable, the court shall continue the restraining order or modify it as the circumstances may require.
- D. Failure to Comply - Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Village Administrator shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien against such real estate and be cross-referenced to the deed of such real estate.

8. Appeals to condemnation of placarding.

Any person receiving written notice from the Village Administrator or his agent of alleged deficiencies on their property may, within thirty (30) days following the date of such notice, submit a written appeal to the Village Council. Such appeal shall state the location of the property and the date of the notice of violations. The appellant must state the reasons, hardship or conditions upon which the appeal is made. The Village Council shall meet to discuss the matter within thirty (30) days after the receipt of the written appeal. Council decisions on the matter shall be by motion and vote, and shall be delivered in writing to the appellant and the Village Administrator.

9. Fire damaged structures, removal or repair fund.

A. No insurance company doing business in the State of Ohio shall pay a claim of a named insured for fire damage to a structure located within the Village of Chauncey, Ohio where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000.00), unless there is compliance with the following procedures:

(1) When the loss agreed to between the named insured or insureds and the 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, in accordance with Ohio Revised Code Section 715.26 (F) shall transfer from the insurance proceeds to the Village Auditor 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, shall transfer from the insurance proceeds the

amount specified in the estimate. 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. 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 Village Auditor, after notifying the Village Administrator, 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.

(2) Upon receipt of proceeds by the Village as authorized by this section, the Village Auditor 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 Revised Code Section 715.261. When transferring the funds as required in section (A) hereof, 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 Village Administrator, if the Village has not incurred any costs for the repairs, removal, or securing. However, the fund shall be returned to the named insured or insureds no later than sixty days after the Village Auditor receives the required proof. If the Village has incurred any costs for repairs, removal, or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the Village shall transfer, no later than sixty (60) days after all such costs have been paid, the remaining funds to the named insured or insureds.

B. Nothing in this section shall be construed to limit the ability of the Village to recover any deficiency under Ohio Revised Code Section 715.261.

C. 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.

D. Nothing in this section shall be construed to make an insurance company liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section, or to make the Village an insured under a policy of insurance, or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided by law.

E. As used in this section and Ohio Revised Code Section 3929.87, "insurance company" or "insurer" includes the Ohio Fair Plan Underwriting Association as established in Ohio Revised Code Section 3929.43.

F. The Village Auditor is hereby designated as the officer authorized to carry out the duties of this section, provided that no funds so held under this section shall be released without notification of such intent to the Village Administrator.

G. This section shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration.

10. Demolition permit required.

A. A demolition permit shall be obtained from the Village Administrator or designated agent prior to the Chauncey Village Code 9-46 destruction and removal of a building or structure where the area demolished exceeds sixty percent (60%) percent of the gross floor area or sixty percent (60%) of the market value of the building or structure. A permit shall not be required for one (1) story accessory structures less than two hundred (200) square feet in area.

B. Each permit application shall contain at a minimum: (1) A site plan indicating the vicinity of the property, the location of the building proposed for demolition, the names of adjacent property owners and the location of buildings on those lots, the location of all utilities, the location of all dumpsters and equipment storage areas and the location of signs and fencing to minimize any attractive nuisance created by the demolition and to protect the public; (2) A narrative statement or completed application indicating the name of the owner and/or demolition contractor, estimated time for removal and clean-up, verification of the disconnection of utilities and commitment to the proper disposal of all demolition debris; (3) A performance bond, letter of credit, cash deposit, or other surety in a form and amount determined sufficient by the Village Administrator or his agent in favor of the owner and/or the Village of Chauncey, Ohio guaranteeing the workman like completion of the demolition but not less than five thousand dollars (\$5,000.00) for a structure not exceeding two thousand five hundred (2,500) square feet in gross floor area and not exceeding two (2) stories in height, ten thousand dollars (\$10,000.00) for a structure exceeding two thousand five hundred (2,500) square feet in gross floor area and not exceeding two (2) stories in height and twenty thousand dollars (\$20,000.00) for structures greater than two (2) stories in height regardless of gross floor area. The Village Administrator may require surety amounts greater than the stated minimums or upon initial application review of the scope of work of a project reduce or waive minimum requirements; (4) Liability insurance policy or certificate covering the owner or contractor in an amount not less than three hundred thousand dollars (\$300,000.00) for the protection of adjacent property owners, the general public and the Village of Chauncey; and (5) Any other information, conditions or attachments deemed necessary by the Village Administrator or designated agent for permit administration and in keeping with public health, safety and welfare or the unnecessary expenditure of public funds.

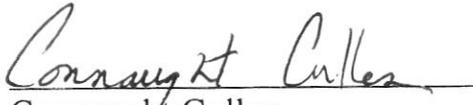
C. A permit fee shall be paid prior to issuance of the demolition permit in the sum of fifty dollars (\$50.00) for residential structures and one hundred dollars (\$100.00) for

commercial, non-residential or mixed uses or in an amount as otherwise established by separate Council ordinance.

D. The permit shall be valid for a period not to exceed thirty (30) days and may be renewed by the Village Administrator or designated agent at no additional cost so long as demolition is actively pursued and all other requirements maintained. Upon investigation and notification to the owner and/or contractor of failure to comply with any requirement, condition or attachment to a permit approval, the permit shall be voided and all activity cease until the deficiency is corrected and the permit is revalidated.

RESOLVED this 4th day of April, 2021.

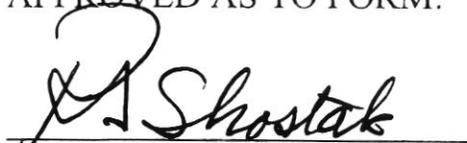
ATTEST:


Connaught Cullen
Council President

ATTEST:


Chelsie McKee
Fiscal Officer

APPROVED AS TO FORM:


Robert J. Shostak
Solicitor

ACKNOWLEDGED:


Amy Renner
Mayor

First Reading: 4/8/20~~20~~21
Second Reading: 5/13/21
Third Reading: 6/10/21