

ORDINANCE NO. 2018-10
INTRODUCED BY: MS. EVANS

4085

**AN ORDINANCE
AMENDING CHAPTER 1340 OF THE CODIFIED ORDINANCES
OF THE VILLAGE OF CHAGRIN FALLS BY ADDING NEW
REGULATIONS AND AMENDING SECTIONS 1340.08 AND
1340.19 AND DECLARING AN EMERGENCY.**

WHEREAS, Council for the Village of Chagrin Falls finds that:

- A. Structures that are vacant and open to entry, high grass, weeds, junk, debris and junk motor vehicles depress the market value of surrounding properties and constitute a blighting or deteriorating influence on the neighborhood and an attractive nuisance;
- B. Vacant and unsafe structures in which utility services have not been shut off create a serious risk of explosion, accidental fire and flood;
- C. The existence of certain hazardous conditions may require a structure to be vacated and demolished; these conditions include but are not limited to (i) danger of structural collapse; (ii) inadequate heat or use of dangerous heating mechanism; (iii) danger of fire; and (iv) lack of plumbing in safe working order;
- D. Structures that remain boarded for an extended period of time contribute to blight, cause a decrease in neighboring property values, create targets for arson, and lead to cancellation of homeowner's insurance for neighboring property owners;
- E. Unkempt grounds surrounding vacant, open structures invite the dumping of garbage and rubbish. Many structures in the Village are made of wood-frame construction that is more combustible than other building types;
- F. Numerous structures in the Village are situated on narrow lots and in close proximity to one another, causing the risk of conflagration and spread of insect and rodent infestation and vacant, open structures often become dilapidated because they are not repaired by the owners and persons in control of the structures; and

WHEREAS, Council deems it necessary to amend Chapter 1340 of the Codified Ordinances regarding the maintenance of structures and premises.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE
OF CHAGRIN FALLS, STATE OF OHIO:**

SECTION 1. Chapter 1340 of the Codified Ordinances is hereby amended by adding the following provisions:

1. Declaration of Nuisance.

- a) For the purposes of this Building Code, any building or structure that is injurious to or a menace to the public health, safety or welfare; or is structurally unsafe, unsanitary or not provided with adequate safe egress, or constitutes a fire hazard, or is vacant and open to public entry, or otherwise seen to be a fire hazard or public safety hazard, or in relation to existing use, constitutes a hazard to the public health, safety, or welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, fire, or other disaster, or is a nuisance as defined in this Chapter, is, severally, declared to be an "unsafe structure". Any unsafe structures or conditions is declared to be a public nuisance.
- b) The public nuisance shall be abated by correction of the violations to the minimum standards of the Codified Ordinances of the Village of Chagrin Falls, Ohio, applicable rules and regulations, the Ohio Revised Code and the Ohio Administrative Code, including the Ohio Building Code, or by demolition.

2. Examination and Condemnation.

- a) The Building Inspector is authorized to examine or cause to be examined every building or other structure reported to be unsafe or damaged or injurious to or a menace to the public, and shall make a written record of the examination. The Building Inspector may designate as a public nuisance any structure or condition found to be unsafe pursuant to paragraph 1 of this section.
- b) The Building Inspector may also declare that an unsafe structure which, due to its advanced state of dilapidation, substantial fire damage or structural infirmity, is an immediate hazard to human life or health, may only be abated by immediate repair and rehabilitation to the minimum standards of the Codified Ordinances of the Village of Chagrin Falls, applicable Village rules and regulations, the Ohio Revised Code, and the Ohio Administration Code, including the Ohio Building Code, or by demolition.

3. Securing of Structures.

- a) Whenever the Building Inspector finds a vacant structure open to entry at doors, windows or other points accessible to the general public, the Building Inspector may cause the structure to be secured at those points of entry. The Building Inspector shall be authorized at any time to enter the

premises to secure the structure in order to lessen the severity of the public nuisance. In the event the property owner refuses entry onto the premises, the Building Inspector shall use all available remedies authorized by a court of competent jurisdiction granting access necessary to carry out this section.

- b) In securing the structure, the Building Inspector may call upon any employee of the Village of Chagrin Falls for whatever assistance may be necessary, or may, by private contract, secure such structure and may notify utilities to shut off service to the property pursuant to Chapter 1340. Unless so declared in writing by the Building Inspector, such securing shall not be deemed to constitute "effective boarding" under this section, and it does not abate the nuisance condition of an unsafe structure, as declared under division (1) of this section. Later notice, issued under Section 1340.08, shall include the fact that the Building Inspector found it necessary to take appropriate action to secure the structure.

4. Vacating Building and Prohibiting Use.

- a) In the notice issued pursuant to Section 1340.08, the Building Inspector may also require that the building, structure or a portion of those be vacated, not be reoccupied, or used until the specified repairs and improvements are completed, inspected, and approved by the Building Inspector. The Building Inspector may cause to be posted at each entrance to the building or structure a notice as follows: "THIS STRUCTURE IS IN A DANGEROUS CONDITION AND HAS BEEN CONDEMNED AND ITS USE HAS BEEN PROHIBITED BY THE BUILDING INSPECTOR FOR THE VILLAGE OF CHAGRIN FALLS." The notice shall remain posted until the required corrections are made or demolition is completed. No person shall remove the notice without written permission of the Building Inspector, nor shall any person use or enter the building or structure except for the purpose of making the required corrections or demolishing or effectively boarding the building or structure, or securing the structure pursuant to Chapter 1340.

5. Noncompliance with Notice.

- a) In the event the owner, agent or person in control fails, neglects or refuses to comply with the notice to repair or rehabilitate, or to demolish and remove a public nuisance or unsafe building, structure or a portion of those, the Building Inspector may take appropriate action to demolish and remove an unsafe structure or to remove or abated any condition that is defined as a nuisance under this chapter. The Building Inspector may, with respect to any unsafe structure, also take appropriate action to effectively board the structure, or to secure it pursuant to Chapter 1340.

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- b) The Building Inspector shall specifically state in writing the findings with respect to the structure, and shall determine whether to secure or to effectively board, based on factors which may include the following: the distance of the structure from neighboring structures, the type of structure, the extent to which the structure is secured, the likelihood of vandalism or arson, the extent of the deterioration, the economic likelihood of eventual rehabilitation of the structure, or cost of securing or effectively boarding the structure.
- c) In the event the owner, agent or person in control fails, neglects or refuses to comply with the notice to repair or rehabilitate, or to demolish and remove a public nuisance or unsafe building, structure or a portion of those, or to remove or abate any other condition that is defined as a nuisance under this chapter, the Building Inspector may take appropriate action to take repair or maintenance measures or cause utility services to be shut-off pursuant to Chapter 1340 or to otherwise abate the public nuisance.
- d) The Building Inspector shall specifically state in writing the findings with respect to the structure, and shall determine whether to perform repair or maintenance based on factors which may include the following: the distance of the structure from neighboring structures, the type of structure, the extent to which the structure is secured, the likelihood of vandalism or arson, the extent of the deterioration, the economic likelihood of eventual rehabilitation of the structure.
- e) Except as otherwise provided in this section, the Building Inspector shall give written notice informing the owner, agent, or person in control, mortgagee of record and lien holders of record of the Village's intention to demolish and remove the unsafe building or structure at least thirty (30) days before the intended action by the Village. The notice may be effective concurrently with the violation notice.
- f) In the event a condemned structure, is effectively boarded by the owner pending rehabilitation and it later becomes open to entry, then upon determination by the Building Inspector that the structure can no longer be effectively boarded, the structure may then be demolished and removed, subject to the Building Inspector giving written notice as stated in Chapter 1340.
- g) Whenever a structure is demolished, whether carried out by the owner or by or on behalf of the Village, such demolition shall include the filling in of the excavation remaining on the property on which the demolished dwelling was located pursuant to the requirements of the Codified Ordinances including, but not limited to the requirements of Chapter 901.

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- h) Any and all expenses or costs, including but not limited to attorney's fees, costs of inspection, administrative staff and support staff, property maintenance costs, court costs, title search fees, process server fees, skip tracing expenses, and costs of collection or prosecution, including discovery and deposition expenses, incurred pursuant to this chapter relating to the demolition, repair, alteration, securing or boarding of a structure or for abating any other nuisance shall be paid by the owner of such structure.
- i) Any and all owners of an unsafe structure, who appear in the chain of title from the time of receipt of a notice of condemnation until demolition of the building or structure, shall be jointly and severally responsible for all costs and expenses incurred relating to the demolition and all costs and expenses of prosecution or collection related thereto.
- j) If within thirty (30) days from the date the Building Inspector sends a statement of charges and costs incurred to the last known address of the property owner or the tax mailing address listed at the Fiscal Officer's office as the custodian of the real property tax records for Cuyahoga County, the owner fails to pay for the costs of removal, repair, alteration, securing or boarding or of inspections of violations that have not been remedied, including, but not limited to, demolition and enforcement of Chapter 1340, the Building Inspector may certify the amount to the Village Fiscal Officer. The Village Fiscal Officer may make written return to the County Fiscal Officer of the action under this section with a statement of the charges for services, the amount paid for the performing of labor and a proper description of the premises including all costs to be paid by the property owner pursuant to this chapter, including the total cost of all abatement activity as defined in Revised Code Section 715.261.
- k) Certification to the County Fiscal Officer is for the purpose of making expenses and costs a lien upon the lands, to be collected as other taxes and returned to the Village with the General Fund, with special accounting under Revised Code Section 715.261. Notwithstanding the method of collection set forth in this division, the Director of Law, in the Director's sole discretion, may take any action necessary to collect the costs of demolition, boarding, or other nuisance abatement from the owner or other responsible party, including but not limited to filing of legal proceedings, referring the amount due for collection action, including filing civil complaints, and initiating post judgment execution actions.

6. Utility Services.

- a) Any structure determined by the Building Inspector to be vacant and unsafe as defined in this chapter and for which utility service, including gas, electric, water, and sewer or other utility as identified by the Building

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Inspector, has not been shut-off poses an immediate risk of harm from explosion, fire, or flooding and is therefore declared to be a nuisance which shall be abated by shut-off of all utility service to such structure.

- b) When notified by the Building Inspector or designee, no Utility shall fail to shut-off its service to any vacant and unsafe structures within ten (10) calendar days of receipt of written notice.
- c) Notice shall be served on the Utility by certified mail, or e-mail address acknowledged by the Utility as a proper means of providing notice to the Utility. The handing of the notice to the person designated to receive the notice shall be deemed actual notice and is legal and valid service and no other form of service is necessary. It shall be the responsibility of the Utility to designate a person to receive the notice provided for in this section. Beginning July 1, 2018, and as often as necessary to ensure that the Village has current information, all gas and electric utility providers shall provide to the Building Inspector the name, address, telephone number, and e-mail address of the person designated to receive Village notices.
- d) No later than two (2) business days following the utility service shut-off, the Utility shall notify the Building Inspector of the date and time that the Utility shut-off the utility service. The notice will be in the form requested by the Building Inspector.
- e) For the purposes of this section:
 - (1) "Utility" means any company in the business of providing electric, water, sanitary sewer, gas, telephone, cable or other utility service to a building or structure.
 - (2) "Vacant" means that no person actually and legally resides in any part of the structure or that no person conducts a lawful business in any part of the structure.
 - (3) "Shut-off" means to stop the flow of gas, electricity, water, sanitary sewer, or other utility service from entering the premises. For underground utilities, shut-off shall be accomplished by disconnecting the service at the street and for overhead utilities, disconnection shall be at the pole.
- f) In the event of any actual or threatened violation of this section or in an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute proper suit in equity or at law to prevent or terminate such violation or remedy such situation.

- g) The Building Inspector may promulgate rules and regulations to enforce this section.

SECTION 2. Section 1340.08 of the Codified Ordinances is hereby amended to add subsections (c) (d), (e) and (f), which reads as follows:

(c) If the person to whom the notice and order is addressed is not found after reasonable and diligence search, then the notice and order shall be sent by certified mail to their tax mailing address, if available, as indicated on the County Tax Duplicate. A copy of the notice and order shall be posted in a conspicuous place on the premises to which it relates. The mailing and posting shall be deemed legal service of the notice.

(d) An owner, agent or person in control of the structure or building, or mortgagee of record, or lienholder of record who has received a notice of violation or a notice to make corrections to the minimum standards of the Codified Ordinances of the Village of Chagrin Falls, applicable Village rules and regulations, the Ohio Revised Code and the Ohio Administrative Code, including the Ohio Building Code, or to demolish and remove, as provided for in this chapter, shall inform prospective purchasers, vendees, grantees, assignees, lessees or land contractees of the notice of violation or the notice to make corrections, or to demolish and remove the unsafe structure.

(e) No person shall transfer to a vendee, grantee, assignee, lessee, land contractee or any other transferee any interest in a building, structure or a portion thereof after receiving a notice of violation to make corrections, or to demolish and remove the same, without first providing the transferee with a copy of the notice. No buyer or grantee, by land contract, purchase agreement, deed or otherwise, shall obtain any interest in any structure or building without obtaining from the seller, prior to sale, the documents described in this paragraph. No person, agent, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of a structure or building situated in the Village, shall disburse any funds resulting from a sale or transfer of any interest in any premises for which a notice has been provided in this chapter, to cure and/or demolish, unless the provisions of this division have been met.

(f) Any buyer or grantee, by land contract or otherwise, of an unsafe structure or building, shall begin, upon the date of transfer, to comply with any notice or order obtained or to be obtained pursuant to Chapter 1340 of the Codified Ordinances and, within ten (10) days of the date of transfer, shall notify the Building Inspector, in writing, of the actions that will be taken to comply. The Building Inspector may then establish a reasonable time to comply.

SECTION 3. Section 1340.19 of the Codified Ordinances is hereby amended to add the following:

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Any notice served by the Building Inspector shall automatically become a final order unless a written notice of appeal before the Board of Zoning Appeals is filed in the office of the Board of Zoning Appeals within the time set forth in the notice from the Building Inspector, but in no event greater than thirty (30) days after receipt of such notice. In the absence of an appeal, all actions taken shall constitute a valid exercise of the police powers of the Village of Chagrin Falls.

SECTION 4. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 5. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 6. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that additional regulations must be implemented immediately to lessen or eliminate the hazards of unsafe structures; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: March 12, 2018



Karl Maersch, Council President

Submitted to the Mayor for
his approval on this

13 day of March, 2018

Approved by the Mayor this

13 day of March, 2018



MAYOR WILLIAM TOMKO

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I hereby certify that Ordinance No. 2018-10 was duly enacted on the 12 day of March, 2018, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.


Clerk of Council