

Record of Ordinances

Ordinance No.: 2006-08

Passed:

AN ORDINANCE AMENDING ORDINANCE 77-94, 85-11, & 2001-09, TO PROVIDE FOR MAINTENANCE OF ANY DILAPIDATED STRUCTURE OR ANY UNSANITARY PREMISES OR NOXIOUS REAL ESTATE, PROVIDING FOR ERADICATION OF NUISANCES, PROVIDING DEFINITIONS, PENALTIES, AND DECLARING AN EMERGENCY

WHEREAS Council for the Village of West Lafayette, the Mayor, and Public Administrator have declared certain privately owned areas of the Village to be in need of clean up, maintenance, and repair; NOW THEREFORE be it ordained by the Council of the Village of West Lafayette, State of Ohio as follows:

SECTION I. DILAPIDATED STRUCTURE – That no person, corporation, or other legal entity shall permit any premises within the Village of West Lafayette, Ohio, to exist nor shall any person occupy a premises within the Village of West Lafayette, Ohio, in such a state of disrepair or deteriorating condition as defined below as to be considered to be a nuisance or a hazard to the health or safety of persons residing in the vicinity of said structure or of passersby.

SECTION II. DETERIORATING CONDITION – That, without limitation, any of the following conditions shall be considered to be a nuisance and the maintenance of the structure in a deteriorating condition.

- (A) Loose bricks or other building materials loose or displaced from exterior walls or chimneys.
- (B) Cornices, gutters, or downspouts, which are loose and sagging or have fallen from the structure.
- (C) Windows containing broken or jagged glass.
- (D) Open holes upon the exterior of the structure whereby the interior can be viewed.
- (E) Exterior stairs, porches, balconies or steps which are in such a condition as to be unsafe to persons using them or to a passerby. The fact, that such person using the stairs, porch, balcony or step is a trespasser is no defense for purposes of this ordinance.
- (F) Foundations and retaining walls caving in.

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- (G) Any detached structures collapsed or in the process of falling down.
- (H) Any structure which is unoccupied and does not have windows, doors, or other openings properly locked and secured. Unoccupied shall be defined as not lived in, vacant, or unused for a period of ninety or more consecutive days.

SECTION III. UNSANITARY OR UNSIGHTLY PREMISES – That no person, corporation, or other legal entity shall permit any premises within the Village of West Lafayette, Ohio, to exist nor shall any person occupy a premises within the Village of West Lafayette, Ohio, in such a state of unsanitariness or unsightliness as to be considered to be a nuisance or a hazard to the health or safety of persons residing in the vicinity of said structure or of passersby.

SECTION IV: UNSANITARY OR UNSIGHTLY PREMISES – That the accumulation of any of the following outside or inside a building or enclosed permanent structure affixed to the real estate shall be considered to be a nuisance and the maintenance of the premises in an unsanitary or unsightly condition.

- (A) **Garbage:** Any and all kitchen or other organic refuse; including, but not limited to, animal, fish, fowl, fruit, or other animal or vegetable matter, decaying or spoiled meats or vegetable matter, or any substance or thing whatsoever which may decompose or become offensive or dangerous to health, or that has become so; and shall include, but not be limited to, every refuse accumulation of animal, fish, fowl, fruit, or animal or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of milk or milk products, meat, fish, fowl, fruit, or animal or vegetable matter, and all putrescible waste, sewage and body waste; including, but not limited to, vegetable and animal offal and carcasses of small dead animals.
- (B) **Refuse:** Nonputrescible non-liquid wastes; including but not limited to, ashes, cinders, tin cans, glass, bottles, rags, wastepaper, wood and paper boxes, grass, tree and shrub trimmings, tree and shrub stumps, large household objects, including but not limited to, furniture, appliances, bricks, concrete, dirt, rocks, sand, gravel, and remodeling materials.
- (C) **Rubbish:** Any and all materials and substances that can attract and/or provide breeding, nesting, nourishment, food or habitat to rodents, vermin, insects, or any other pests, or which can create sanitation or health problems. The existence of cockroaches in materials removed from premises will create a presumption of a nuisance in the premises.

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- (D) **Trash:** Any and all materials and substances or accumulations of any sort whatsoever, which create an eyesore, which is defined for the purposes of this ordinance as unsightly, unpleasant or offensive to view to the general public. No materials shall be deemed trash for the purposes of this ordinance if they are raw materials stored to be used in the production process, work in process, inventories or finished products held for sale which are temporarily stored on the premises of manufacturing or retail sales or wholesale business establishments.
- (E) **Infection and Communicable Disease:** Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition by reason of any portion of such building being infected with a communicable disease or by reason of the absence therein of working toilet facilities, or by reason of the known presence of sewer gas therein or thereon.
- (F) **Unfit for Human Habitation:** Any structure or building or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition when unfit for human habitation or in a condition dangerous or harmful to the lives or health of the occupants by reason of the inhabited portion of the house being damp or wet or by reason of such lack of repair, or by reason of such accumulation of dirt, filth, litter, refuse or other offensive or dangerous substances or liquids, or by reason of such defects in or lack of repair of or improper use of the drainage, plumbing, or ventilation, or by reason of the existence on the premises of such a nuisance or other condition as is likely to cause sickness among the occupants. Any structure or building or any portion thereof, used for human habitation, which is in such unclean or unsanitary condition is hereby declared to constitute a public nuisance.

No person, firm or corporation shall be deemed to be maintaining unsanitary or unsightly premises if the garbage, refuse, rubbish, or trash which is situated outside a building or enclosed structure is maintained in sanitary receptacles and/or garbage bags and is in fact picked up for disposal or destruction or otherwise removed for destruction or disposal from the premises within two days after being placed outside a building. The fact that such garbage, refuse, rubbish, or trash may have some monetary value shall be no defense to the charge of violating the provisions of this ordinance.

SECTION V: NOXIOUS REAL ESTATE - That the owner of a vacant lot, common or other unoccupied or occupied property within the Village of West Lafayette, Ohio, shall hereby be required to cut, mow, keep down, or remove all grass and weeds in excess of ten inches, unsightly, or noxious weeds, vines or grass, scrub trees; including but not limited to, sumac, on the property, the weeds, vines, grass, or scrub trees being deemed a breeding place for rats, mosquitoes, and other insects and being unsafe, unhealthy, and a

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nuisance. The Village Administrator shall cause to be published twice yearly in a newspaper of general circulation within the said Village, once a week for two consecutive weeks commencing in 2007, on the first week of April and on the second week of September, a notice that all owners of vacant lots or commons or other unoccupied or occupied property within the said Village, shall cut, mow, keep down, or remove all tall, unsightly, or noxious weeds, scrub trees, vines or grass on such property, and comply in all requirements of this ordinance Sections 1,2,3,4 and 5. For 2006, the notice will be published for two consecutive weeks in July and during the second week of September.

In the month of May of each year the Village Police or Village Administrator shall make a thorough outside inspection of all public and private property for violations of this ordinance in the municipality and shall transmit a report together with recommendations to the council on or before the first day of June. For 2007, the inspection will be August and the report will be filed in September.

If, upon inspection, it is found that the published order has not been complied with as to any lot or parcel of ground, council shall by resolution direct the owner, occupant or person in charge of such land within 10 days to abate said nuisance, or correct the condition, setting forth the nature of the violation and the acts required to be done. Said resolution may provide that upon failure or refusal to comply with said order, the work required can be done by the municipality, with the amount expended thereof to be a valid claim against such owner or occupant and charged as a lien upon said land and recovered by the municipality by suit in a court of competent jurisdiction. The Village Solicitor may also be authorized in said resolution to seek an injunction contra the owner of the property to cause the owner to comply with this ordinance and resolution of Council.

A copy of the resolution adopted under this ordinance may be served personally or at the usual place of residence of such owner, occupant or person in charge of such land or by certified mail; or in lieu of such service, may be published for two consecutive weeks in a newspaper of general circulation in the Village. A copy of the resolution will be mailed regular mail to the owner's last known tax mailing address. Upon service of the resolution to comply with this ordinance, the owner may request a hearing before the Public Administrator. The request for hearing must be delivered in writing to the Public Administrator at his office within ten days of service of the resolution. Completion of service shall be presumed upon posting, mailing, or publication. The owner may present his position as to why his property does not violate this ordinance. The hearing will be scheduled within thirty days from the request. The Public Administrator may accept the owner's explanation, refuse to accept the owner's explanation, or tentatively agree to a plan of correction to be submitted to Village Council for its final approval.

SECTION VI. ABATEMENT OR VACATION OF PREMISES – Any person, corporation, or other legal entity who permits a dilapidated structure to exist, structure to

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be in deteriorating condition, a nuisance to exist, premises to be unsanitary or unsightly, or noxious, shall be subject to an order for abatement.

- (A) Whenever the board of health of the county ascertains from examination or reports of its inspectors or sanitary officers or otherwise that a public nuisance exists, as defined in this ordinance, in or upon any structure of building, or portion thereof, and is of the opinion that such nuisance is capable of being abated with immediate vacation of the premises or such portion thereof, and service notice in writing upon the owner of such premises, or his lessee or agent, or the person in possession, charge or control thereof directing him to abate such nuisance and remove the unclean or unsanitary conditions within such reasonable time as may be fixed by said board and specified in said notice, it shall then be the duty of such owner, agent or person to abate such nuisance within said time. Whenever such abatement does not take place within such time, or wherever in the opinion of said board, such abatement is impossible or impracticable without an immediate vacation of the premises or portion thereof and said board services notice in writing upon the owner, lessee, agent, or person in possession, charge or control thereof to vacate or cause the vacation of such premises or portion thereof designated in the notice, then it shall be the duty of such owner, lessee, agent or person to vacate or cause the vacation of such premises or portion thereof within twenty days from the date of the service of such notice, or within a shorter time (not less than twenty-four hours in any case) as may be specified in said notice. Whenever, either in addition to or without the service of said notices on said owner, lessee, agent or person in possession, charge or control, the said board is the opinion that such nuisance can be abated by a tenant or other occupant of such premises or portion thereof, and such notices, either for abatement of the nuisance or of vacation of the premises, are served upon such tenant or other occupant, then it shall be the duty of such tenant or other occupant to comply with the terms of such notices and to abate the nuisance or vacate the premises accordingly. After any such notice or order of vacation it shall be unlawful to occupy or permit the occupancy of such premises or portion thereof until such nuisance shall have been completely abated and such building or portion thereof shall have been rendered clean and sanitary in accordance with the terms of said notices of the board of health. When there is no owner, agent, lessee, or person in charge, possession or control, who is a resident of or can be served in the municipality, then personal service outside of said municipality on any such owner, agent, lessee or person in charge, possession or control, by anyone delegated by said board of health to make such service, or by certified letter, or if the address of the owner, lessee, agent or person in possession charge or control be unknown, or service be not secured by certified letter after effort to do so, by notice by

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publication once a week for two consecutive weeks in any newspaper of general circulation in the municipality, or posting or attaching to or on the outside of said structure or building of a copy of the notice or order consecutively for two weeks, shall have the same effect as service with said municipality.

- (B) When the notice or order of vacation follows a notice or order of abatement, as provided in this ordinance, such notice or order of vacation shall not be enforced as provided in this chapter, unless said notice or order of abatement specifies a time when the person so notified or ordered may appear before the board or officer issuing same to show cause why such order or notice of vacation should not be issued and unless said board (or a majority thereof) or officer is present at its or his office at the time so specified; such time to be not less than 24 hours after the service of the notice or order. When the notice or order of vacation is issued as provided in this ordinance, without a previous notice or order of abatement, such notice or order of vacation shall not be enforced as provided in this chapter unless it specifies a time, not less than 5 days after the service thereof, when the person so notified or ordered may appear before the board issuing same to show cause why such notice or order should not be enforced, and said board or a majority thereof is present at its office at the time so specified; provided that when, in the opinion of at least 4/5 of the members of such board, an emergency exists which requires, for the protection of the health of occupants, the vacation of the building or portion thereof without a delay of 5 days, then no such fixing of a time for hearing shall be required.
- (C) Whenever such procedure, in the opinion of the board of health is desirable or necessary, said board of health may affix conspicuously on the buildings or part thereof the notice or order of vacation.
- (D) When the notice or order of vacation has not been complied with, and the board of health certifies such fact to the marshal of the municipality, together with a copy of the order of notice, it shall be the duty of said marshal to enforce such notice or order of vacation and to cause the said premises to be vacated in accordance with the terms of such notice or order.
- (E) Whenever the board of health shall certify to the solicitor any failure to comply with and such order or notice of vacation, with the request that civil proceedings for the enforcement thereof be instituted, the solicitor shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of such order or notice and the abatement of the nuisance against which such order or notice was

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directed; such suits or proceedings to be brought in the name of the municipality. Proceedings under this section shall not relieve any party defendant from criminal prosecution or punishment under this code or any other criminal law or ordinance in force with the municipality.

SECTION VII. PENALTY PROVISION – That any person, firm or corporation found to be guilty of violating any of the terms or provisions of this ordinance shall be deemed to be guilty of a minor misdemeanor with a penalty therefore by being a fine not to exceed One Hundred Fifty and 00/100 (\$150.00) Dollars and court costs. The criminal penalty will not be imposed until all civil remedies have been exhausted.

SECTION VIII. SEPARABILITY – That if any provision of this ordinance shall be declared invalid or void, all other provisions of this ordinance shall remain in full force and effect. The Council for the Village of West Lafayette, Ohio shall decide which Section of this ordinance to proceed upon. Failure to follow a specific section shall not preclude enforcement under another section.

SECTION IX. AMENDMENT OR PRIOR PROVISIONS – All ordinances in conflict herewith; including but not limited to, Ordinance No. 77-94, 85-11, 2001-09, and shall be and herewith are amended accordingly.

SECTION X. EMERGENCY ORDINANCE – That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the need to protect the health and safety and property values of the citizens of the Village of West Lafayette, Ohio from unhealthy, unsanitary, unsightly and nuisance conditions; this ordinance shall, therefore, take effect and be in force immediately upon its passage by Council.

PASSED IN COUNCIL THIS _____ day of _____, 2006.

Jack L. Patterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Dru Prater, Fiscal Officer

William M. Owens
Solicitor for the Village of West
Lafayette, Ohio