

## **Record of Ordinances**

**Ordinance No.: 2008-18**

**Passed: June 23, 2008**

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### **AN ORDINANCE AMENDING ORDINANCE 77-94, 85-11, 2001-09, 2006-08 & 2007-07 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 Village 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, all herein after referred to as person, 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 structure deemed to be in a state of disrepair or 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, or the interior walls can be seen.
- (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.
- (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. The existence of rats or mice observed going in or out of the premises in a continuous manner will create a presumption of a nuisance in the premises.
- (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 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 and unfit for human habitation when 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 and unfit for human habitation 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 six (6) 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 nuisance. The Village Administrator shall cause to be posted on the Village television bulletin board and at five (5) general locations throughout the Village where ordinances are posted for two (2) consecutive weeks the first week of March and the first week of August, 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 I, II, III, IV V and VI. Any failure to comply with provisions of this Section shall constitute a nuisance.

After publishing by posting of the notice to cut, mow, keep down, or remove all tall, unsightly, or noxious weeds, scrub trees, vines or grass on properties in the Village of West Lafayette, Ohio and to comply in all requirements of this ordinance Sections I, II, III, IV, V and VI, any village police officer having probable cause to believe a person is in violation of any provision of this ordinance may issue a preliminary citation for the person to abate the violation within fifteen (15) days. If the person believes he is not in violation of any section of this ordinance so cited by the Village police officer, the person may request a hearing before the West Lafayette Village Administrator, or in his absence, the Mayor. The request for hearing form is attached to this ordinance and is adopted by the West Lafayette Village Council. The request for a hearing will be made within three (3) days of receipt from the Village police officer of a preliminary citation. If the Village Administrator, or in his absence, the Mayor, determine that a violation of this ordinance has occurred and the person has not made reasonable attempts to abate the conditions which lead to the preliminary citation, then the Village police officer will issue a citation to the person. The hearing will take place within five (5) days of the request for hearing and the decision will be delivered to the person within three (3) days. The request for hearing will be in writing. If the person is unwilling or unable to fill out the request form, a form will be filled out for him by an employee of the Village. The person must sign the request. Forms will be available at the Village offices.

Filing a request for a hearing will not toll the fifteen (15) day period required for total abatement of the nuisance.

The Village Solicitor may also be authorized by Council to seek an injunction contra the person to cause compliance with this ordinance.

**SECTION VI. ABATEMENT OR VACATION OF PREMISES** – In addition to other provisions of this ordinance, a person, or other legal entity who permits a dilapidated structure to exist, structure to 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 serves 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. Nuisance shall be defined as any condition which is a violation of this ordinance because of dilapidated structure, deteriorating conditions, unsanitary or unsightly conditions, or noxious real estate. 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 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 within 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 chief of the municipality, together with a copy of the order of notice, it shall be the duty of said chief 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 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.
- (F) Action by the Board of Health will not preclude independent action by the Village of West Lafayette.

**SECTION VII. PENALTY PROVISION** – That any person, or other legal entity 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, and potential community service for a first offense. For a second violation of the terms of this ordinance the penalty will be a

fourth degree misdemeanor punishable by incarceration in the Coshocton County Justice Center for a term not to exceed thirty (30) days, a fine not to exceed Two Hundred Fifty and 00/100 (\$250.00) Dollars and potential community service. For a third or subsequent violation of the terms of this ordinance, the penalty will be a third degree misdemeanor punishable by incarceration in the Coshocton County Justice Center for a term not to exceed sixty (60) days, a fine not to exceed Five Hundred and 00/100 (\$500.00) Dollars, and potential community service.

**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, 2006-08 and 2007-07 shall be and herewith are amended accordingly. This ordinance shall be known and be part of the Village of West Lafayette code or ordinance as Section 660.14.

**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 23rd day of June, 2008.

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Jack L. Patterson, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lisa Derr, Fiscal Officer

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

VILLAGE OF WEST LAFAYETTE  
113 EAST RAILROAD STREET  
WEST LAFAYETTE, OHIO 43845  
740-545-7834

**Preliminary Citation and Notice to Abate Violations**

To: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

The undersigned officer has probable cause to believe you are in violation of Section 660.14 of the Codified Ordinances for the Village of West Lafayette, Ohio. Your violation(s) are as follows:

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) \_\_\_\_\_

Failure to correct these violations within fifteen (15) days will result in a citation to the Municipal Court of Coshocton County, Ohio for a violation of Section 640.14 of the Codified Ordinances for the Village of West Lafayette, Ohio.

If you believe you are not in violation of this ordinance, you may request a hearing before the Village Administrator or in his absence, the Mayor. A copy of the Hearing Request Form is attached hereto. **You must request your hearing and file your request for hearing with the Village Administrator within three (3) days starting with tomorrow's date. Weekends and holidays are included within the three (3) days.** If you are unwilling or unable to complete the request form for hearing, a village employee will fill it out for you but you **MUST** sign it. A hearing will be provided within five (5) days of the filing of the Request For Hearing and you will receive a decision within three (3) days of the hearing. The fifteen (15) days to correct your violation begins with the date of the preliminary citation, not from the date of your hearing.

Proof of receipt:

\_\_\_\_\_  
Officer

\_\_\_\_\_  
Date

VILLAGE OF WEST LAFAYETTE  
113 EAST RAILROAD STREET  
WEST LAFAYETTE, OHIO 43845  
740-545-7834

**Hearing Request Form Objecting to Preliminary Citation  
For Violation of Section 660.14  
Code of Ordinances Village of West Lafayette**

The undersigned person believes no violation of Code of Ordinances Section 660.14 of the Village of West Lafayette, Ohio has been committed. A hearing before the Village Administrator, or in his absence, the Mayor, is requested.

The undersigned states his objections to the violation and states how he has attempted to correct the situation. Extra sheets may be attached for additional statements.

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) \_\_\_\_\_

\_\_\_\_\_  
Name

**Hearing Notice**

Your hearing before the Village Administrator, or in his absence, the Mayor, will take place in Council Chambers the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_m at \_\_\_\_\_ o'clock \_\_\_\_ M. If this time is not acceptable because of work schedules or previously scheduled appointments, you may call the Village Administrator at the Village Offices or his designee for a new date and time. **You may bring a representative with you.**

Date: \_\_\_\_\_

by \_\_\_\_\_  
Village Employee or Public Administrator