

AN ORDINANCE ADOPTING A DANGEROUS BUILDING ORDINANCE.

WHEREAS, Section 67.400, RSMo authorizes any village to enact an ordinance to provide for the repair, vacation or demolition of dangerous buildings;

WHEREAS, the Village of Loch Lloyd desires to enact such an ordinance to better provide for the health, safety and welfare of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LOCH LLOYD, MISSOURI, AS FOLLOWS:

Section 1. DEFINITIONS.

“Dangerous Building”: All buildings, structures, premises or equipment that have any or all of the following defects shall be deemed “dangerous buildings”:

- A. The building, structure, premise or equipment is in a condition that poses an immediate danger to either:
 - 1. the lives or safety of persons, whether occupants or otherwise, or other property.
 - 2. The building, structure, premise or equipment is a fire hazard for any reason, including without limitation, obsolescence, dilapidation, deterioration, damage, lack of sufficient fire resisting qualities, or faulty electrical wiring, gas connections or heating apparatus.
 - 3. The building, structure, or premise lacks safe or adequate facilities for means of egress in case of fire or panic.
- B. The building, structure or premise has any one or more of the following conditions:
 - 1. improperly distributed loads upon the floors or roof;
 - 2. overloaded floors or roofs; or
 - 3. insufficient strength to be reasonably safe for actual or intended use; or
 - 4. an open concrete (or similar material) foundation more than four (4) feet deep in which no building is in the process of being constructed.
- C. Any portion of the building, structure, premise or equipment has been so damaged by any cause that the building, structure, premise or equipment is likely to fail or collapse, or become detached or dislodged and thereby injure persons or damage property.

- D. Any interior or exterior portion, member, appurtenance, ornamentation or other component of the building or structure is likely to fall or collapse, or become detached or dislodged and thereby injure persons or damage property.
- E. Any portion of the building, structure, or premise has racked, warped, buckled or settled to such an extent that walls or other structural portions have insufficient resistance to fire, earthquake, wind, flood or similar perils.
- F. Part or all of the building, structure, premise or equipment is in danger of collapsing as a result of any cause, including without limitation any one or more of the following causes:
 - 1. dilapidation, deterioration or decay;
 - 2. faulty construction;
 - 3. removal, movement or instability of any portion of the ground necessary to support such building, structure or equipment; or
 - 4. deterioration, decay or inadequacy of foundation.
- G. The building, structure, or premise has exterior 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 one-third of the base.
- H. The building, structure, premise or equipment or any portion thereof is, for any reason, unsafe for actual or intended use.
- I. The building, structure or premise, exclusive of the foundation has either:
 - 1. thirty-three percent or more damage or deterioration of supporting member or members; or
 - 2. fifty percent or more damage or deterioration of non-supporting members, enclosing or outside walls or coverings.
- J. The building, structure, premise or equipment has been so damaged by any cause, or has become so dilapidated, deteriorated or decayed as to attract and result in harm to children, notwithstanding that the building, structure or premise is not an "attractive nuisance" as that term is defined by statute or decisional law; or is likely to become a harbor for vagrants, criminals or trespassers.
- K. The building, structure, premise or equipment has been constructed, exists or is being maintained in violation of any provision of the duly adopted building code, or of any law of the Village pertaining to building, structure or equipment safety.
- L. The building, structure or premise has in any non-supporting part or portions less than fifty percent or in any supporting part member or portion less than sixty-six

percent of the strength, fire resisting qualities, or weather' resisting qualities required by the code for newly constructed buildings of like area, height and occupancy in the same location.

- M. The building or structure is used or intended to be used for dwelling purposes and is likely to injure or effect health, safety or welfare of persons who occupy or may occupy said building, structure or premise by reason of any one or more of the following conditions:
1. inadequate maintenance;
 2. dilapidation, deterioration or decay;
 3. damage;
 4. faulty construction or arrangement;
 5. inadequate light, ventilation or sanitation facilities; or
 6. absence of the utilities essential to safe living.
- N. The building, structure, premise or equipment is in such condition as to constitute a "public nuisance" as that term is defined by statute or common law.
- O. Those under construction upon which no substantial work shall have been performed for ninety (90) days immediately prior to the time that a notice shall issue under this ordinance.
- P. The building, structure or premise is vacant for a period in excess of six months and if because of the condition of the building, structure, premise or equipment:
1. it is unsafe or insanitary; or
 2. it endangers property or the health, safety or welfare of persons.

"Building Official": The person designated by the Board of Trustees to enforce and administer this Ordinance.

Section 2. DECLARATION OF PUBLIC NUISANCE

All dangerous buildings, structures, premises or equipment are hereby declared to be public nuisances, and shall be repaired, maintained, vacated or demolished as provided in the duly adopted building code or as otherwise directed by the Building Official or Board of Trustees.

Section 3. REPAIR, VACATION OR DEMOLITION

The following standards shall be followed by the Board of Trustees in ordering repair, vacation or demolition:

- A. If the dangerous building can reasonably be repaired or the situation mitigated so that it will no longer be deemed a dangerous building, it shall be ordered repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. If the dangerous building cannot be reasonably repaired or maintained so that it will no longer exist in violation of the terms of this ordinance, it shall be demolished.
- D. In any case where the conditions constituting the public nuisance are such the costs to repair or maintain the building or structure so that it will no longer constitute a public nuisance, equal or exceed fifty percent (50%) of the value of the building or structure, it shall be ordered repaired or demolished, and in the event it is not repaired or demolished by the owner, then the Village shall abate the nuisance by demolition.
- E. If the dangerous building is such because of the conditions prescribed in Section 1.0 of this ordinance, it shall be ordered to be completed in accordance with lawful plans and specifications, and if it shall not be so completed or demolished by the owner, then the Village shall abate the nuisance by demolition.
- F. In any case where a dangerous building is partially destroyed by deterioration, decay or damage and cannot be restored or repaired so that it will no longer be deemed a dangerous building, or if the owner or other persons having an interest in it are unwilling to restore or repair it, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of the duly adopted building code or any statute of the state, it shall be demolished. The determination of whether a building or structure cannot be restored or repaired shall rest with the Building Official.

Section 4. DUTIES OF BUILDING OFFICIAL

The Building Official shall:

- A. Inspect, or cause to be inspected, as often as may be necessary, all buildings, structures, premises or equipment for the purpose of determining whether any conditions exist that render such place a dangerous building when he has reasonable grounds to believe so.

- B. Inspect any building, structure, premise or equipment about which complaints are filed by any person to the effect that the building, structure, premise or equipment is or may be existing in violation of the duly adopted building code.
- C. Serve notice of the declaration of nuisance to the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building, structure, premise or equipment as shown by the land record of the Cass County Recorder of Deeds Office. Such notice shall be served either personally or by certified mail, return receipt requested, and by posting such notice on the premises. Such notice shall state that:
1. The owner must vacate, vacate and repair, or vacate and demolish such building in accordance with the terms of the notice or may have it repaired in accordance with the notice and the duly adopted building code;
 2. The occupant or lessee must vacate such building or may have it repaired in accordance with the notice and remain in possession; and
 3. The mortgagee, agent, or other persons having an interest in such building as shown by the land records of the Cass County Recorder of Deeds Office, may, at his own risk, repair, vacate, or demolish or have such work or act done.
 4. Any person notified under this subsection to repair, vacate and repair, or vacate and demolish any building shall be given reasonable time to commence the action required by the notice. The notice may include a reasonable time in which the required action shall be completed. If, in the judgment of the Building Official or his representative, it is determined to be necessary to extend the time to do or have done the work or act required by the notice provided herein, the Building Official shall specify the extension date in writing, and serve an additional notice of the date to which the extension is made.
 5. If service cannot be had by the methods set forth above, a newspaper publication notice shall be made notifying the owner of the dangerous building.
- D. Report to the Board of Trustees any noncompliance with the notice provided for in subsection C above, including either failure to vacate or to commence or failure to finish the work required by the notice.
- E. Appear at all hearings conducted by the Board of Trustees and testify as to the condition of dangerous buildings.
- F. Place a notice on all dangerous buildings substantially reading as follows:
- "This structure has been found to be a dangerous building by the Building Official. This notice is to remain on this building until it is repaired, vacated, or

demolished in accordance with the notice that has been given to the owner, occupant, lessee, mortgagee, or agent of this structure or building, and all other persons having an interest in said building as shown by the land records of the Cass County Recorder of Deeds Office. It is unlawful to remove this notice until such notice is complied with."

Section 5. DUTIES OF BOARD OF TRUSTEES

- A. Upon receipt of a report from the Building Official of failure to vacate or to commence work of reconditioning or demolition within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the Board of Trustees shall call and have a full and adequate hearing upon the matter, giving at least ten (10) days written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the dangerous building as shown by the land records of the Cass County Recorder of Deeds Office to appear before it on the date specified in the notice to show cause why the building, structure, premises or equipment reported to be a dangerous building should not be repaired, vacated and repaired, or vacated and demolished in accordance with the statement of particulars set forth in notice of the Building Official. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. The testimony shall be under oath, which may be administered by the Village Clerk, or a designee so selected in his/her absence, or court reporter and a written record of the hearing shall be by said 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 of land or parcel of ground upon which the building or structure stands and shall be added to the costs of performance for demolition or repair, in the event the Village shall be required to do so and payable as provided for such costs. In lieu of a written record of the hearing, the Village Clerk, or a designee so selected in his/her absence, may order that all testimony be recorded by digital or other recorder method, and the recording be preserved and, if needed, subsequently transcribed, which record then shall be admissible and used for all purposes the same as a transcript reported by a reporter.
- B. After the hearing, if the evidence supports a finding that the building, structure, premise or equipment is a nuisance or detrimental to the health, safety or welfare of the residents of the Village, the Board of Trustees shall issue an order making specific findings of fact, based upon competent and substantial evidence, that shows the building, structure, premise or equipment to be a nuisance and detrimental to the health, safety or welfare of the residents of the Village, and ordering the building, structure, premise or equipment to be demolished and removed, or repaired. This order, together with the findings of fact and conclusions of law, shall be delivered or mailed to each party to the hearing or to his/her attorney of record. The order shall state a reasonable time from the date of issuance within which to comply with the order and shall further provide that if it is not complied with within such time, the Village shall cause the work to be done

by it or by contractors employed by it for that purpose. If the evidence does not support a finding that the building, structure, premise or equipment is a nuisance or detrimental to the health, safety or welfare of the residents of the Village, the proceeding shall be dismissed.

- C. If the owner, occupant, mortgagee, or lessee fails to comply with the order, or extension thereof within the time specified, the Building Official shall cause the building, structure, premise or equipment to be repaired, vacated and repaired, or vacated and demolished as the facts may warrant; and the Building Official shall certify the charge for the repair, vacation or demolition to the Village clerk who shall cause a special tax bill therefor and for the cost of the reporter at the hearing, to be issued against the property. The tax bill, from the date of issuance, shall be deemed a personal debt against the property owner and a lien on the property until paid.
- D. 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, and if the covered claim payment is in excess of fifty (50) percent of the face value of the policy covering a building or other structure, premise or equipment, then the following procedure shall apply:
 - 1. The insurer shall withhold from the covered claim payment, ten percent (10%) of the covered claim payment, and shall pay that amount to the Village to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the Village for the expenses of demolition of the building or structure as a dangerous building, the monies held by the Village shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the Village to the insured or as the terms of the policy, including any endorsements thereto, provide.
 - 2. The Village shall release the proceeds and any interest that has accrued on the proceeds received to the insured or, as the terms of the policy and endorsements thereto provide, within thirty (30) days after receipt of the insurance monies, unless the Village has instituted legal proceedings under the provisions of this ordinance. If the Village has instituted legal proceedings under the provisions of this ordinance, all monies in excess of that necessary to comply with the provisions of this ordinance for the removal of the building or structure, less salvage value, shall be paid to the insured.
 - 3. The Village may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuilt or otherwise make the premises safe and secure. In this event the Village

shall issue a certificate within thirty (30) days after receipt of proof, to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

4. No provision of this section shall be construed to 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.

Section 6. EMERGENCIES

Where it reasonably appears there is an immediate danger to the health, safety or welfare of any person, the Building Official may take emergency measures to vacate and repair or demolish a dangerous building or structure. Cost incurred in the performance of emergency work shall be paid by the Village. The Village Attorney may institute appropriate action against the owner of the premises where the dangerous building or structure is or was located for the recovery of such costs.

Section 7. NO PERSONAL LIABILITY

No officer, agent or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent or employee of the Village as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the Village Attorney or special counsel until the final determination of the proceedings therein.

Section 8. APPEAL

Interested parties may appeal from the determination of the Board of Trustees to the circuit court having jurisdiction, as provided for and established in chapter 536 of the Revised Statutes of Missouri.


Section 9. PENALTY

Any person convicted of or that pled guilty to a violation of this ordinance shall not be assessed a fine, if combined with the amount of court costs, for violations committed within a twelve-month period beginning with the first violation totaling in excess of: two hundred dollars (\$200) for the first violation, two hundred seventy-five dollars (\$275) for the second violations, three hundred and fifty dollars (\$350) for the third violation, and four hundred fifty dollars (\$450) for the fourth and any subsequent violations. Each day that a violation continues shall constitute a separate and distinct offense.

PASSED by the Board of Trustees of the Village of Loch Lloyd, Missouri, this 18
day of April, 2017.


Bernard Abrams, Chairman

ATTEST:


Wayne Little, Village Clerk