

VILLAGE OF GEORGETOWN, OHIO

ORDINANCE NO. 1067

AN ORDINANCE REGULATING UNSAFE STRUCTURES AND STRUCTURES UNFIT FOR HUMAN HABITATION; DECLARING A PUBLIC NUISANCE; PROVIDING FOR THE CONDEMNATION, REPAIR AND/OR DEMOLITION THEREOF WITHIN THE VILLAGE OF GEORGETOWN, BROWN COUNTY, OHIO

BE IT ORDAINED by the Council of the Village of Georgetown, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows:

§1. Preamble. The Council of the Village of Georgetown recognizes that the Village of Georgetown is an historic community and that many of the buildings and structures within the Village of Georgetown have both historic and architectural significance and are worthy of preservation. However, the Council of the Village of Georgetown also recognizes that the health, safety and welfare of the citizens of the Village of Georgetown require that buildings and other structures be maintained to certain minimum standards.

The enactment of this ordinance is intended to achieve a balance between the foregoing competing interests. As such, it is the stated purpose of the Council of the Village of Georgetown that the administration of this ordinance shall attempt to preserve, to the extent possible, the history and architecture of this community insofar as the same may be achieved without posing a risk to the health, safety and welfare of the citizens of the community.

§2. Definitions. As used within this ordinance, the following words and phrases shall have the meanings as indicated in this section:

(A) Building Inspector: that person appointed pursuant to the provisions of this ordinance who is charged with the administration and enforcement of this ordinance, or his duly authorized representative.

(B) Condemn: to adjudge unfit for use or occupancy.

(C) Occupant: any person living or sleeping in a building; or having possession of a space within a building.

(D) Owner: any person, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the county as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person.

(E) Municipality: the Village of Georgetown, Brown County, Ohio.

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(F) Person: an individual, corporation, partnership or any other group acting as a unit.

(G) Premises: a lot, or parcel of land including the buildings or structures thereon.

(H) Plumbing Facilities: a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.

(I) Public Nuisance: includes the following:

(1) the physical condition, or use of any premises regarded as a public nuisance at common law; or

(2) any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, excavations and unsafe fences or structures; or

(3) any structure which has unsanitary sewerage or plumbing facilities; or

(4) any premises designated as unsafe for human habitation or use; or

(5) any premises which is manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure as to endanger life, limb or property; or

(6) any premises from which the plumbing and/or heating facilities have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or

(7) any structure or building that is in a state of dilapidation, deterioration or decay; open, vacant or abandoned; damaged by fire to the extent so as to not provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

(J) Structure: that which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

(K) Structure Unfit for Human Occupancy: a structure is unfit for human occupancy or use whenever the Building Inspector finds that such structure is unsafe or because of the degree in which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested,

contains filth and contamination, or lacks proper sanitary, plumbing or heating facilities or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(L) Unsafe Structure: any structure in which all or part thereof is found to be dangerous to life, health, property, or the safety of the public or the occupants of the structure by not providing minimum safeguards for protection from fire or because such structure is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is likely.

### §3. Building Inspector.

(A) Office of Building Inspector. There is hereby created within this municipality the office of Building Inspector. The Building Inspector shall be appointed by the mayor and confirmed by the legislative authority of this municipality for a term of one year. He need not be a resident of this municipal corporation. Vacancies in the office of Building Inspector shall be filled by the mayor for the unexpired term.

(B) Qualifications of Building Inspector. The Building Inspector shall be a civil engineer licensed in the State of Ohio.

(C) Appointment of Building Inspector. The appointment of a Building Inspector shall include a probationary period of six months. If an appointment is made for an unexpired term, and if the same Building Inspector is reappointed at the end of that term, the probationary period shall continue into his next term. No appointment is final until the appointee has satisfactorily completed his probationary period. If the service of the appointee is unsatisfactory during the probationary period, he may be removed by the mayor of this municipality and the reasons for his removal shall be communicated to the legislative authority of this municipality. If a person is appointed to successive terms as Building Inspector, he shall serve only one six month probationary period during those successive terms.

(D) Relief from Personal Liability. The Building Inspector, his deputies, agents, and employees who acts in good faith in the discharge of duties of enforcement of this ordinance is relieved of all personal liability for any damage accruing to persons or property as a result of such acts or alleged failure to act. Any suit instituted against the Building Inspector, his deputies, agents or employees because of an act performed by the Building Inspector, his deputies or employees in the lawful discharge of duties and under the provisions of this ordinance shall be defended or represented by the Municipality's attorney-at-law until the final termination of the proceedings. Further, neither the Building Inspector, nor his deputies, agents and employees shall be held liable for any costs in any action, suit or proceeding that is instituted by the Building Inspector in the enforcement of this ordinance.

(E) Official Records. An official record shall be kept of all business and activities of the office of the Building Inspector, and all such records shall be open to public inspection at all

appropriate times and under reasonable regulations to maintain the integrity of and security of such records.

(F) Credentials. The Building Inspector and authorized representatives shall carry proper credentials of their respective office for the purpose of inspecting any and all buildings and premises in the performance of duties under this ordinance.

(G) Compensation. The compensation and benefits of the Building Inspector shall be fixed by the legislative authority of this Municipality.

(H) Duties. The Building Inspector shall be charged with the enforcement and administration of this Ordinance. As such, he is empowered to hire or otherwise contract for, on an as-needed basis, such expert and otherwise qualified personnel as may be required to carry out the duties imposed upon him herein, within such budgetary limitations as may be imposed by the legislative authority of this Municipality.

(I) Rule-making Authority. The Building Inspector shall have authority to propose rules and procedures to implement the provisions of this ordinance. Such proposed rules and procedures shall be submitted to the legislative authority of this Municipality for its approval and revision as necessary. Such rules and procedures shall be in the interest of public health, safety and general welfare; shall serve to interpret and implement the provisions of this ordinance and to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

(J) Rules and Procedures. Once approved by the legislative authority of this Municipality, such rules and procedures shall be attached to this ordinance as Appendix A and shall be deemed a part hereof.

#### §4. Inspections.

(A) Suspected Violations. The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported or believed to be an unsafe structure or unfit for human occupancy.

(B) Inspections. In order to safeguard the safety, health and welfare of the public, the Building Inspector is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing duties under this ordinance.

(1) Right of Entry. If any owner, occupant or other person in charge of a structure subject to the provisions of this ordinance refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this ordinance is sought, the Municipality shall be permitted to seek, in a court of

competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

(2) Access by Owner or Operator. Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs, or alterations as are necessary to comply with the provisions of this ordinance.

#### §5. Condemnation.

(A) General. When a structure or part thereof is found by the Building Inspector to be unsafe, or when a structure or part thereof is found to be unfit for human occupancy or use, such structure shall be condemned pursuant to the provisions of this ordinance and shall be placarded, vacated and shall not be reoccupied without approval of the Building Inspector.

(B) Closing of Vacant Structures. If the structure or part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the Building Inspector shall be permitted to post a notice of condemnation on the premises and order the structure closed up so as to not be an attractive nuisance. Upon the failure of the owner to close up the premises within the time specified in the order, the Building Inspector shall cause the premises to be closed through any available public agency or by contract or arrangement with private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

#### §6. Notices and Orders.

(A) Notice to Owner or Person(s) Responsible. Whenever the Building Inspector determines that there has been a violation of this ordinance or has reasonable grounds to believe that a violation has occurred, or whenever the Building Inspector has condemned any structure under the provisions of Section 5 of this ordinance, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the Building Inspector has condemned the property or any part thereof, the Building Inspector shall give notice to the owner and to the occupants of the intent to post and vacate the property.

(B) Form. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why the notice is being issued;

(4) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this ordinance;

(5) Inform the property owner of the right to file an appeal; and

(6) Include a statement of the right of the Municipality to file a lien against the real estate in accordance with § 5(B) and § 9(D) of this ordinance.

(C) Service. Service of such notice shall be deemed proper if served upon such owner personally; or by leaving the notice 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 mail addressed to the owner at the last known address with return receipt requested; or if the certified notice is returned with receipt showing the notice has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice, and at least one publication of such notice in a local newspaper of general circulation within this Municipality.

(D) Service on Occupant. When a condemnation order is served on an occupant other than an owner or person responsible for such compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance shall vacate at the time set for correction of defects if there is a failure to comply.

(E) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in §11 of this ordinance.

#### §7. Placarding.

(A) Placarding of Structure. After the condemnation notice required under the provisions of this ordinance has resulted in an order by virtue of failure to comply within the time given, the Building Inspector shall post on the premises or structure or parts thereof, a placard bearing the words: "Condemned as unfit for human occupancy or use." and a statement of the penalties provided for any occupancy or use or for removing the placard. The owner or the person or persons responsible for the correction of violations shall have removed themselves from the property on failure to comply with the correction order in the time specified, but other occupants shall be given a reasonable time thereafter to vacate.

(B) Prohibited Use. Any person who shall occupy a placarded premises or structure or part thereof, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by this ordinance.

(C) Removal of Placard. The Building Inspector 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 Building Inspector shall be subject to the penalties provided by this ordinance.

#### §8. Emergency Measures.

(A) Vacating Structures. When, in the opinion of the Building Inspector, there is actual and immediate danger of failure or collapse of a structure which would endanger life, or when any structure has fallen and life is endangered by the occupancy of the structure, or when there is actual or potential danger to the building occupants or those in proximity of any structure the Building Inspector is authorized and empowered to order and require the occupants to vacate the premises forthwith. He shall cause to be posted at the main entrance of to such structure a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the Building Inspector." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs or demolishing the structure.

(B) Temporary Safeguards. Notwithstanding other provisions of this ordinance, whenever, in the opinion of the Building Inspector, there is actual and immediate danger of collapse or failure of a structure, the Building Inspector shall order the necessary work to be done including the boarding-up of accessible openings, to render such structure temporarily safe and shall cause such other action to be taken as the Building Inspector deems necessary to meet such emergency.

(C) Closing Streets. When necessary for the public safety, the Building Inspector shall temporarily close sidewalks, streets, places and premises adjacent to such unsafe structure, and prohibit the same from being used.

(D) Emergency Work. For the purposes of this § 8, the Building Inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) Costs of Emergency Work. Costs incurred in the performance of emergency work shall be paid from the treasury of the Municipality on certificate of the Building Inspector and such costs shall be charged against the real estate upon which such structure is located and shall be a lien upon such real estate pursuant to Ohio Revised Code Section 715.26. The legal counsel of the Municipality shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

(F) Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeal board, be afforded a hearing as described in this ordinance.

#### §9. Demolition.

(A) General. The Building Inspector shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has

become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

(B) Unreasonable Repairs. Whenever it shall be established to the satisfaction of the Building Inspector that the cost of such repairs would exceed two hundred (200%) percent of the current value of such structure, the Building Inspector shall be entitled to presume that it would be unreasonable to effect such repairs and he shall be entitled to presume that such a structure is a public nuisance which should be ordered demolished and removed.

(C) Notices and Orders.

(1) Notice to Owner, Person(s) Responsible and Lienholders. Whenever the Building Inspector determines that an order of demolition shall be issued in accordance with § 9(A) of this Ordinance, notice of the intent of the Municipality with respect to such demolition and removal shall be given to the owner or the person or persons responsible therefor and to the holders of legal or equitable liens of record upon the real property in the manner prescribed below.

(2) Form. Such notice shall:

- (a) Be in writing;
- (b) Include a description of the real estate sufficient for identification;
- (c) Include a statement of the reason or reasons why the notice is being issued;
- (d) Be issued not less than thirty (30) days in advance of any demolition and removal of the structure;
- (e) Inform the persons affected of the right to file an appeal; and
- (f) Include a statement of the right of the Municipality to file a lien against the real estate in accordance with § 5(B) and § 9(D) of this ordinance.

(3) Service. Service of such notice shall be by certified mail addressed to the owner, person(s) responsible and holders of legal or equitable liens of record at the last known address with return receipt requested; or if the certified notice is returned with receipt showing the notice has not been delivered, by posting a copy thereof in a conspicuous place in or about the



structure affected by such notice, and at least one publication of such notice in a local newspaper of general circulation within this Municipality.

(D) Agreement to Repair or Remove. The owner of record, other person(s) responsible or the holder of legal or equitable liens of record may enter into an agreement with the Building Inspector, acting on behalf of the Municipality, to perform the demolition and removal or repair of such structure within the thirty (30) day period specified at § 9(C)(2)(d).

(E) Failure to Comply. Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Building Inspector shall cause the structure or part thereof to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate in accordance with Ohio Revised Code Section 715.26.

(F) Salvage Materials. When any structure has been ordered demolished and removed, the Municipality or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

#### §10. Right to Appeal.

(A) Application for Appeal. Any person directly affected by a decision of the Building Inspector or a notice or order issued under this ordinance shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 30 days after the day the decision, notice or order was served. An Application for Appeal shall be based on a claim that the true intent of this ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this ordinance do not fully apply, or the requirements of this ordinance are adequately satisfied by other means.

(B) Membership of Board. The Board of Appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of this Municipality. The Building Inspector shall be an ex-officio member but shall have no vote on any matter before the Board. The Board shall be appointed by the mayor of the Municipality, and shall serve staggered and overlapping terms.

(1) Alternate Members. The mayor of this Municipality shall appoint two or more alternate members who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

(2) Chairman. The Board shall annually select one of its members to serve as Chairman.

(3) Disqualification of Member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(4) Secretary. The mayor of this Municipality shall designate a qualified person to serve as Secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the mayor of this Municipality.

(5) Compensation of Members. Compensation of Members shall be determined by the legislative authority of this Municipality.

(C) Notice of Meeting. The Board shall meet upon notice from the Chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

(D) Open Hearing. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Inspector and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

(1) Procedure. The Board shall adopt and make available to the public through the Secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(E) Postponed Hearing. When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(F) Board Decision. The Board shall modify or reverse the decision of the Building Inspector only by a concurring vote of a majority of the total number of appointed Board members.

(1) Records and Copies. The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Building Inspector.

(2) Administration. The Building Inspector shall take immediate action in accordance with the decision of the Board.

(G) Administrative Appeal. Any person, whether or not a previous party of the appeal, shall have the right to appeal a final Board Decision to the Court of Common Pleas of Brown County, Ohio pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

(H) Stays of Enforcement. Appeals of notice and orders (other than Emergency measures pursuant to § 8 of this ordinance) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

(I) Relief from Personal Liability. The Board of Appeals, its Secretary and staff, who act in good faith in the discharge of their duties of review of the enforcement of this ordinance are relieved of all personal liability for any damage accruing to persons or property as a result of any acts or alleged failure to act. Any suit instituted against the Board of Appeals, its Secretary and staff because of an act or failure to act by the Board of Appeals, its Secretary or staff in the lawful discharge of their duties and under the provisions of this ordinance shall be defended or represented by the Municipality's attorney-at-law until the final termination of the proceedings. Further, neither the Board of Appeals, its Secretary nor its staff shall be held liable for any costs in any action, suit or proceeding that is instituted in the enforcement of this ordinance.

### §11. Violations.

(A) Unlawful Acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, use or occupy, let to another for use or occupancy or permit another person to use or occupy any structure regulated by this ordinance, or cause the same to be done, contrary to or in conflict with or in violation of any of the provisions of this ordinance, or fail to obey a lawful order of the Building Inspector or the Board of Appeals, or to remove or deface a placard or notice posted under the provision of this ordinance.

(B) Penalty. Any person, firm or corporation, who shall violate any provision of this ordinance shall, upon conviction thereof, be guilty of a minor misdemeanor, and the violation shall be deemed a strict liability offense. Each day that a violation continues after the due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

(C) Prosecution. In case of any unlawful acts, the Building Inspector shall institute an appropriate action or proceeding at law to exact the penalty provided in this §11 of this ordinance. Also, the Building Inspector shall ask the Municipality's legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

(1) To restrain, correct, or remove the violation or refrain from any further execution of work;

(2) To restrain or correct the erection, installation, maintenance, repair or alteration of such structure;

(3) To require the removal of work in violation, or;

(4) To prevent the occupation or use of the structure which is not in compliance with the provisions of this ordinance.

§12. Existing Remedies: Conflict with Other Laws.

(A) The provisions of this ordinance shall not be construed to abolish or impair existing remedies under the laws of the State of Ohio or of this Municipality or its officers or agencies relating to the securing, repair, removal or demolition of any buildings which are dangerous, unsafe or unsanitary.

(B) The provisions of this ordinance shall not be construed to prevent the enforcement of other laws, ordinances or regulations which prescribe standards other than those provided herein. In the event of a conflict, the most restrictive provision shall apply.

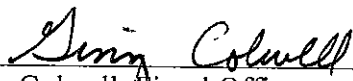
§13. Validity. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall continue in full force and effect, and to this end, the provisions of this ordinance are hereby declared to be severable.

§14. Effective Date. This ordinance shall be in full force and effect from and after the earliest date allowed by law.

Adopted this 10<sup>th</sup> day of June, 2008.

  
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Dale E. Cahall, Mayor

ATTEST:

  
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Ginny Colwell, Fiscal Officer