

ORDINANCE NO. 2023-37

**AN ORDINANCE CREATING CHAPTER 1310 "CONDEMNATION AND DEMOLITION," OF THE CODIFIED ORDINANCES OF THE CITY OF CLYDE, OHIO, AND DECLARING AN EMERGENCY.**

**WHEREAS** the purpose of condemnation and/or demolition of buildings or other structures within the City to ensure public health, safety, and welfare, improve aesthetics, and prevent the deterioration of property and premises within the City; and,

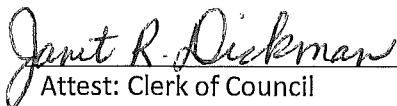
**WHEREAS** this Council is satisfied that there is reasonable cause to create Chapter 1310 of the Codified Ordinances of the City of Clyde, Ohio, to create the procedures for condemnation and/or demolition of buildings or other structures within the City and that such provisions should be authorized in the general interest and betterment of the community.

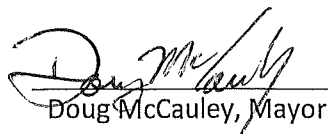
**NOW, THEREFORE BE IT ORDAINED** by the Council of the City of Clyde, State of Ohio:

**SECTION 1.** Chapter 1310, titled "Condemnation and Demolition" of the City's Codified Ordinances, is hereby created as shown in Exhibit A.

**SECTION 2.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and shall take effect and be in force from and immediately after its passage so as to avoid delay in the effective date of this Ordinance and prevent further detriment to the community.

Passed and adopted by Clyde City Council on: 4-4-2023

  
Attest: Clerk of Council

  
Doug McCauley, Mayor

Approved as to form:  
Zachary J. Selvey, Solicitor

## CHAPTER 1310

### Condemnation and Demolition

1310.01 GENERAL.

1310.02 CONDEMNATION.

1310.03 DEMOLITION.

1310.04 NOTIFICATION.

1310.05 APPEALS.

1310.06 RECOVERY OF COSTS.

1310.07 TRANSFER OF OWNERSHIP.

1310.08 RIGHT OF ENTRY.

1310.09 UNANIMOUS FINDINGS REQUIRED TO PROCEED.

1310.99 PENALTY.

#### **1310.01 GENERAL.**

- (a) Title. The provisions in this Chapter 1310 shall be known as the "City of Clyde Condemnation and Demolition Code," hereinafter referred to as the "Code."
- (b) Scope. The provisions of this Code shall apply to every building or other structure, whether used for residential or nonresidential purposes.
- (c) Intent. The intent of this Code is to ensure public health, safety, and welfare, improve aesthetics, and prevent the deterioration of property and premises within the City. Existing buildings or other structures that are not in compliance with the Code shall be altered or repaired to comply with the provisions herein.
- (d) Conflict. The provisions of this Code shall supplement any and all laws of the State of Ohio and any and all ordinances, rules, and/or regulations of the City applicable to buildings and other structures in the City. If, in any specific case, there is an apparent conflict between the provisions of this Code and any other applicable ordinance, rule, and/or regulation of the City, the provisions of this Code shall be deemed to prevail.
- (e) Severability. If a section, subsection, sentence, clause, or phrase of this Code is, for any reason, held to be unconstitutional or otherwise legally invalid, such decision shall not affect the validity of the remaining portions of this Code.

**1310.02 CONDEMNATION.**

(a) General. If the City Manager finds that a building or other structure is:

1. A Public Nuisance as defined in ORC §3767.41(2)(a) - a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.
2. A Chronic Nuisance - Property on which three or more drug violations defined under ORC Chapter 2925 and/or two felony drug activities have occurred during any 12-month period.
3. A nuisance because of vacancy longer than 90 days.
4. Lacking functional utilities such as water, sewer, gas, electricity, etc.
5. Lacking reasonable or adequate maintenance of the structure or premises, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it harms the community in which such structure is situated.

The City Manager may condemn the building or other structure pursuant to the provisions of this Code and regardless of whether the property owner has been cited for violating any section of the Codified Ordinances.

(b) Notice. When the City Manager has condemned a building or other structure, the City Manager shall send a written notice to the owners of the person, firm, or corporation who, from the records in the Sandusky County Treasurer's office, appears to be the owner of the aforesaid property, if any (the "Condemnation Notice"). The Condemnation Notice procedure is outlined in §1310.04 of this chapter.

(c) Placarding. Upon condemning a building or other structure, the City Manager shall post a placard on the building or other structure bearing words to the effect of:

**CONDEMNED**

**DO NOT ENTER - UNSAFE TO OCCUPY**

*The City of Clyde, Ohio, has determined that this property is insecure, unsafe, structurally defective, unfit for human occupancy, and/or violates the Codified Ordinances for the City of Clyde, Ohio. It shall be unlawful for this building or other structure to be rented, leased, or occupied from the date of this notice until all required repairs have been made in a manner satisfactory to and approved, in writing, by the City Manager, subject to occupants being given reasonable time thereafter, not to exceed seventy-two (72) hours, to vacate the building or other structure. Failure to comply with this order and/or mutilation,*

## Exhibit A

*unauthorized removal, and/or defacing of this placard is punishable by up to 90 days in jail and/or a fine of \$750.00.*

- (d) Occupied Buildings. When an occupied building or other structure is condemned and placarded by the City Manager, all individuals shall be removed from the building or other structure within seventy-two (72) hours. No person shall enter, remain in, or occupy any placarded building or other structure except for the purposes of making the repairs or to comply with orders of the City Manager. No owner, operator, agent, or person responsible for a placarded building or other structure shall allow or permit anyone to occupy, enter, or remain in the placarded building or other structure except for the purposes of making the repairs or to comply with orders of the City Manager. If any person fails to comply with the order of the City Manager to vacate a condemned building or other structure, the City Manager shall advise the Chief of Police, and it shall be the duty of the Chief of Police to vacate the building or other structure. The City shall not be held responsible for the costs of temporary lodging.
- (e) Vacant Buildings. When a vacant building or other structure is condemned, the City Manager may order the owners of the property to close and/or secure the building or other structure so it will not be an attractive nuisance. If the owners of the property fail to close and/or secure the building or other structure within the time specified in the order, the City Manager shall cause it to be closed and/or secured through any available public agency or by contract or arrangement by private persons.
- (f) Re-occupancy. If a building or other structure is condemned, the building or other structure shall not be reoccupied without the approval of the City Manager.

### **1310.03 DEMOLITION.**

- (a) General. Any building or other structure that is insecure, unsafe, structurally defective, and/or unfit for human occupancy is subject to demolition by the City, regardless of whether the building or other structure has been condemned pursuant to the provisions of this Code and/or whether the property owner has been cited for a violation of any section of the Codified Ordinances.
- (b) Notice. Unless a building or other structure is in imminent danger of failure or collapse so as to endanger life or property or an emergency otherwise exists, the City Manager shall send a written notice to the owners of the person, firm, or corporation who, from the records in the Sandusky County Treasurer's office, appears to be the owner of the aforesaid property, if any, of the City's intention to remove the building or other structure (the "Demolition Notice"). The Demolition Notice procedure is outlined in §1310.04 of this chapter.

## Exhibit A

- (c) Failure to Comply. If the owner of a property fails to comply with the Demolition Notice, the City Manager may:
- a. Repair and/or secure the building or other structure and/or
  - b. Cause the building or other structure to be razed, either through an available public agency or by contract or arrangement with private persons.
- (d) Permits. No person, firm, or corporation shall demolish any building or other structure without a valid demolition permit. A separate permit is required for each building or other structure. Applicants for a demolition permit shall pay the City of Clyde a fee to be established by the City Manager.
- (e) Emergency. If the City Manager determines that a building or other structure is in imminent danger of failure or collapse so as to endanger life or property or an emergency otherwise exists, the City Manager shall cause the necessary work to be done to render the building or other structure temporarily safe. If the City Manager determines, at his or her sole discretion, that it is impracticable to repair the building or other structure, he may order the building or other structure razed. Additionally, the City Manager may issue the Demolition Notice by regular mail and/or less than thirty (30) days prior to the removal of the building or other structure. The fact that the building or other structure has been condemned shall not affect or preclude using the emergency demolition process.

### **1310.04 NOTIFICATION.**

- (a) Condemnation Notice. Notice shall be posted to the building, other structure, or in a place visible from the public right-of-way and sent by United States regular mail to the property owners' last known tax billing address, pursuant to the tax records of Sandusky County, if any.
- (b) Demolition Notice. Notice shall be given at least thirty (30) days prior to the removal of the building or other structure and shall be posted to the building or other structure and sent by United States regular mail to the property owners' last known tax billing address, pursuant to the tax records of Sandusky County, if any.
- (c) Format. Written notifications shall include the following:
- i. A description of the property sufficient for identification.
  - ii. A statement explaining the reason(s) for which the building or other structure is insecure, unsafe, structurally defective, and/or unfit for human occupancy.

## Exhibit A

- iii. A reasonable time, not to exceed thirty (30) days, to make the repairs and improvements required to bring the building or other structure into compliance with the provisions of this Code and/or the other provisions of the Codified Ordinances.
- iv. A statement that if the building or other structure is not repaired or improved within the time given, the building or other structure is subject to demolition or razing.
- v. The warning required by §1310.07 of this Code.
- vi. An explanation of the process for appeal.

(d) The City Manager shall not be required to give any further notice to owners or lienholders.

### **1310.05 APPEALS.**

The property owner of a building or other structure that is the subject of Condemnation and/or Demolition Notice may appeal the decision of the City Manager to condemn and/or demolish the building or other structure with City Council by filing a written petition with the Clerk of Council, requesting a hearing and setting forth the name, address, and phone number of the petitioner and a brief statement of the grounds for such hearing. The petition shall be filed within thirty (30) days after the date of the Condemnation and/or Demolition Notice. It shall be accompanied by a non-refundable fee of \$50.00 to cover the City's costs of handling the appeal.

Upon receipt of the petition, the Clerk of Council shall set a date, not to exceed thirty (30) days, for a hearing before City Council. Upon setting the hearing, the Clerk of Council shall notify the petitioner of the date, time, and place by sending written notice of the hearing by United States regular mail, at least seven (7) days prior to the hearing, to the address for petitioner contained in the petition. At the hearing, the petitioner shall be given the opportunity to be heard and to show cause as to why the City Manager's order should be modified or dismissed or why a variance from the mandatory provisions should be granted.

After the hearing, Clyde City Council shall affirm, disaffirm, modify, or dismiss the City Manager's order by a majority vote of the members present. Alternatively, if it clearly appears to a majority of the members of City Council that, by reason of special conditions, undue hardship would result from the strict application of any provision of this Code and/or any other provision of these Codified Ordinances, Council may permit a variance from the mandatory provisions thereof in such a manner that the public safety shall be secured, substantial justice done and the spirit of the provisions of this Code upheld.

The petitioner shall be notified within ten (10) days of the hearing, in writing, of the decision of Council by sending the decision by United States regular mail to the petitioner's address as

## Exhibit A

provided in the petition. If the petitioner or his/her representative does not appear for the hearing to present his/her position, the appeal shall be dismissed, and the provisions of this Code shall be enforced.

The proceedings before City Council shall be recorded, and its decisions shall be set forth in writing. Any person aggrieved by the decision of City Council may seek relief in any court of competent jurisdiction as provided by the laws of the State of Ohio.

### **1310.06 RECOVERY OF COSTS.**

(a) General. As used in this Code, "Total Cost" means any cost incurred by the City as a result of repairing, securing, and/or removing a building or other structure that is insecure, unsafe, structurally defective, and/or unfit for human occupancy. When the City incurs the Total Cost, the City shall send an invoice by United States regular mail to the property owner at his or her last known tax billing address according to the tax records of Sandusky County. If the property owner fails to pay the invoice within thirty (30) days of the date of the invoice, the City may collect the Total Cost by any of the following methods:

1. The Finance Director shall certify the Total Cost, together with a twenty-five percent (25%) penalty thereon, to the County Auditor. The County Auditor shall enter such expense on the tax duplicate of the County as a special charge against the parcel on which such building is or was situated. The same shall be collected as other taxes and, when collected, shall, together with the penalty thereon, be refunded to the City.
2. The City may commence a civil action to recover the Total Cost from the person who held title to the parcel at the time the costs were incurred.
3. The City may also elect to file a Mechanic's Lien against the property owner, with the costs of the filing assessed to the property owner.

(b) Priority of Lien for Removal or Repair. If the Demolition Notice is given by United States regular mail at least thirty (30) days prior to the removal of the building or other structure to the property owners and the holders of legal or equitable liens of record upon the real property on which the building or other structure is located, if any, the lien provided for in this section as a result of the removal or repair of the building or other structure is effective on the date the City incurred the expenses of such removal or repair. If, for any reason, the Demolition Notice is not given by United States regular mail at least thirty (30) days prior to the removal of the building or other structure to the property owners and the holders of legal or equitable liens of record upon the real property on which the building or other structure is located, if any, the lien provided for in this section as a result of the removal or repair of the building or other structure is valid but shall be subordinate to any liens of prior record.

## Exhibit A

### **1310.07 TRANSFER OF OWNERSHIP.**

It shall be unlawful for the owner of any building or other structure who has received a Condemnation and/or Demolition Notice to sell, transfer, mortgage, lease or otherwise dispose of the building or other structure to another until:

- (a) The notice has been complied with or
- (b) The owner first furnishes the grantee, transferee, mortgagee, or lessee a true copy of any Condemnation and/or Demolition Notice and provides the City Manager with a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of the Condemnation and/or Demolition Notice and fully accepting the responsibility, without condition, for making the corrections or repairs required by the Condemnation and/or Demolition Notice.

### **1310.08 RIGHT OF ENTRY.**

The City Manager and/or other designated official may enter any building or other structure at reasonable times, and at any time in an emergency, for the purpose of determining whether the building or other structure complies with the provisions of this Code and/or with the provisions of any other building, housing and/or property maintenance code contained in these Codified Ordinances.

### **1310.09 UNANIMOUS FINDINGS REQUIRED TO PROCEED.**

No proceeding under this chapter shall be maintained unless at least three (3) of the following City Officials unanimously find that conditions for condemnation and/or demolition, in fact, exist.

- (a) City Manager
- (b) Safety Service Director
- (c) Zoning Inspector
- (d) Police Chief
- (e) Fire Chief



Exhibit A

**1310.99 PENALTY.**

(a) The provisions of this Code are specifically intended to impose strict liability.

(b) Any person who violates §1310.02 by

1. Entering, remaining in, or occupying any placarded building or other structure; and/or
2. Allowing or permitting any person to occupy, enter, or remain in the placarded building or other structure; and/or
3. Mutilating, removing, and/or defacing a condemnation placard.

is guilty of a misdemeanor of the second degree.

(c) Any person who violates §1310.07 is guilty of a misdemeanor of the third degree.