

CITY OF STRUTHERS
Ordinance

NO. 19-005

**AN ORDINANCE CREATING TITLE THREE, CHAPTER 1331, OF
THE CODIFIED ORDINANCES OF THE CITY OF STRUTHERS,
OHIO TO REVISE THE CONDEMNATION AND/OR DEMOLITION
PROCEDURES FOR BUILDINGS AND OTHER STRUCTURES
LOCATED IN THE CITY OF STRUTHERS, REPEALING §§
1375.03(b) – (l) OF THE CODIFIED ORDINANCES FOR THE
CITY OF STRUTHERS, OHIO, BOTH INCLUSIVE, AND
DECLARING AN EMERGENCY.**

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

WHEREAS, §§ 1375.03(b) – (l) of the Codified Ordinances of City of Struthers, Ohio, both inclusive, presently govern the procedures for the condemnation and/or demolition of buildings or other structures in the City; and

WHEREAS, this Council is satisfied that there is good cause to create Title Three, Chapter 1331, of the Codified Ordinances of the City of Struthers, Ohio to revise the procedures for condemnation and/or demolition of buildings or other structures within the City, that such revisions will not be detrimental to the general interest, and that such revisions should be authorized.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Struthers, Ohio, $\frac{3}{4}$'s of all members elected thereto concurring:

SECTION 1: Title Three, Chapter 1331, of the Codified Ordinances of the City of Struthers, Ohio shall be, and hereby is, created to read as follows:

1331.01 General

- (a) Title. The provisions contained in this Chapter 1331 shall be known as the “City of Struthers 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.

1331.02 Condemnation

- (a) General. If the Safety Service Director finds that a building or other structure is insecure, unsafe, structurally defective, and/or unfit for human occupancy, the Safety Service Director 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 a violation of any section of the Codified Ordinances.

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- (b) Notice. When the Safety Service Director has condemned a building or other structure, the Safety Service Director shall send a written notice to the owners of the property and to 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 "Condemnation Notice"). The Condemnation Notice shall include (i) a description of the property reasonably 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; (iii) 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; (v) the warning required by § 1331.06 of this Code; and (vi) an explanation of the process for appeal. The Condemnation Notice shall be posted to the building or other structure and sent by United States certified mail to the property owners' last known tax billing address, pursuant to the tax records of Mahoning County, 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. If the certified mail sent to the property owners and/or the holders of legal or equitable liens of record upon the real property on which the building or other structure is located is not successfully delivered, the Condemnation Notice shall then be published in local newspaper of general circulation at least once a week for three consecutive weeks.

- (c) Placarding. Upon condemning a building or other structure, the Safety Service Director shall post a placard on the building or other structure bearing words to the effective of:

"CONDEMNED
DO NOT ENTER – UNSAFE TO OCCUPY

The City of Struthers, Ohio has determined that this property is insecure, unsafe, structurally defective, unfit for human occupancy, and/or in violation of the Codified Ordinances for the City Struthers, 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 Safety Service Director, 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, 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 Safety Service Director, all individuals shall be removed from the building or other structure within seventy-two (72) hours and 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 Safety Service Director. 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 Safety Service Director. If any person fails to comply with the order of the Safety Service Director to vacate a condemned building or other structure, the Safety Service Director 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 Safety Service Director may order the owners of the property to close up 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 up and/or secure the building or other structure within the time specified in the order, the Safety Service Director 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 Safety Service Director.

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1331.03 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 Safety Service Director shall issue written notice to the owners of record of the property and the holders of legal or equitable liens of record upon the real property on which such building or other structure is located, if any, of the City's intention to remove the building or other structure (the "Demolition Notice"). The Demolition Notice shall include (i) a description of the property reasonably 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; (iii) 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 will be razed; (v) the warning required by § 1331.06 of this Code; and (vi) an explanation of the process for appeal. The Demolition 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 certified mail to the property owners' last known tax billing address, pursuant to the tax records of Mahoning County, 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. If the certified mail sent to the property owners and/or the holders of legal or equitable liens of record upon the real property on which the building or other structure is located is not successfully delivered, the Demolition Notice shall then be published in local newspaper of general circulation at least once a week for three consecutive weeks.
- (c) Failure to Comply. If the owner of property fails to comply with the Demolition Notice, the Safety Service Director may (i) repair and/or secure the building or other structure and/or (ii) 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 to the City of Struthers a fee to be established by the Safety Service Director.
- (e) Insurance. No demolition permit shall be issued until the applicant has furnished the Safety Service Director with proof of effective liability insurance in the amount of \$300,000.00/\$1,000,000.00 (CSL).
- (f) Emergency. If the Safety Service Director 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 Safety Service Director shall cause the necessary work to be done to render the building or other structure temporarily safe. If the Safety Service Director determines, in 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 Safety Service Director may give the Demolition Notice other than by certified mail and/or less than thirty (30) days prior to removal of the building or other structure. The fact that the building or other structure has been condemned shall not affect or preclude the use of the emergency demolition process.

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1331.04 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 Safety Service Director to condemn and/or demolish the building or other structure with the Board of Building Appeals 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 the Condemnation and/or Demolition Notice and shall be accompanied by a non-refundable fee of Twenty-five Dollars (\$25.00) 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 the Board of Building Appeals. 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 Safety Service Director's order should be modified or dismissed or why a variance should be granted. After the hearing, the Board of Building Appeals shall affirm, disaffirm, modify or dismiss the Safety Service Director's order by a majority vote of the members present. Alternatively, if it clearly appears to a majority of the members of the Board of Building Appeals present 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, the Board of Building Appeals 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 the Board of Building Appeals by sending the decision by United States regular mail to the petitioner's address as 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 the Board of Building Appeals shall be recorded and its decisions shall be set forth in writing. Any person aggrieved by the decision of the Board of Building Appeals may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the State of Ohio.

1331.05 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. The Total Cost shall be paid by the City. 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 Mahoning 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:
- (i) The Clerk of Council may certify the Total Cost, together with the parcel number or another proper description of the land on which the building or other structure was located, the date the costs were incurred, and the name of the owner of record at the time the costs were incurred, to the Mahoning County Auditor, who shall then place the costs as a charge upon the tax and duplicate, at which time the Total Cost are a lien upon such lands from and after the date the costs were incurred. The Total Cost shall be collected as other taxes and returned to the City. The placement of the Total Cost on the tax list and duplicate shall relate back to, and is effective in priority, as of the date the costs were incurred, provided that the City certifies the Total Cost within one year from the date the costs were incurred.
 - (ii) 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.
 - (iii) The City may file a lien on the parcel of land upon which the building or other structure was located for the Total Cost by filing a written affidavit with the Mahoning County Recorder that states the parcel number, the Total Cost, and the date on which the costs were incurred. The City may then pursue a foreclosure

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action to enforce the lien a court of competent jurisdiction or, pursuant to §§ 323.65 to 323.79 of the Ohio Revised Code, as hereinafter amended, with the board of revision. The City may elect to acquire the parcel by indicating such an election in the complaint for foreclosure or in an amended complaint. Upon the entry of a decree of foreclosure, the Mahoning County Sheriff shall advertise and offer the property for sale on at least one occasion. The minimum bid with regard to the sale of the foreclosed property shall equal the sum of the taxes, penalties, interest, costs, and assessments due and payable on the property, the Total Cost, and any associated court costs and interest as authorized by law. An owner of the property may redeem the property by paying the minimum bid within ten (10) days after the entry of the decree of foreclosure. If an owner fails to so redeem the property, and if the parcel is not sold for want of a minimum bid, the property shall be disposed of as follows:

- (A) If the City elects to acquire the property, the parcel shall be transferred to the City as if the property were transferred by all owners in title to the City in lieu of foreclosure as provided in § 5722.10 of the Ohio Revised Code, as hereinafter amended, in which case the property shall not be subject to foreclosure or forfeiture under § 323.25 or Chapter 5721. or 5723. of the Ohio Revised Code and any lien on the property for costs incurred for any unpaid taxes, penalties, interest, charges, or assessments shall be extinguished; or
- (B) If the City does not elect to acquire the property, the parcel shall be forfeited to the state or to a political subdivision or school district as provided in Chapter 5723. of the Ohio Revised Code, as hereinafter amended.

- (b) Priority of Lien for Removal or Repair. If the Demolition Notice is given by United States certified 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 certified 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.

1331.06 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 (i) the notice has been complied with or (ii) the owner first furnishes the grantee, transferee, mortgagee or lessee a true copy of any Condemnation and/or Demolition Notice and provides the Safety Service Director 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.

1331.07 Right of Entry

The Safety Service Director 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. The owner of the property shall give the Safety Service Director and/or other designated official free access to the building or other structure for the purpose of such inspection. If such permission is refused or otherwise unobtainable, the Safety Service Director or other designated official may apply for and obtain a search warrant, pursuant to constitutional guidelines, in order to gain access to the building or other structure.

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1331.99 Penalty

- (a) The provisions of this Code are specifically intended to impose strict liability.
- (b) Any person who violates § 1331.02 by (i) entering, remaining in, or occupying any placarded building or other structure; (ii) allowing or permitting any person to occupy, enter, or remain in the placarded building or other structure; and/or (iii) mutilating, removing and/or defacing a condemnation placard is guilty of a misdemeanor of the second degree.
- (c) Whoever violates § 1331.06 is guilty of a misdemeanor of the third degree.

SECTION 2: §§ 1375.03(b) – (l) of the Codified Ordinances of City of Struthers, Ohio, both inclusive, are hereby repealed in their entirety.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including § 121.22 of the Ohio Revised Code.

SECTION 4: A delay in the effective date of this Ordinance will result in detriment to the economic health, safety and welfare of the Struthers community at large. Accordingly, this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon its passage and approval by the Mayor.

PASSED IN COUNCIL THIS 23rd DAY OF January, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

Henry D. Franceschelli, Sr.
PRESIDENT OF COUNCIL

FILED WITH THE MAYOR THIS 25th DAY OF January, 2019.

Megan R. Shorthouse
CLERK OF COUNCIL

APPROVED BY THE MAYOR THIS 25th DAY OF January, 2019.

Terry P. Stocker
MAYOR