

ORDINANCE NO. 123

ORDINANCE ENACTING REGULATIONS RELATING TO BUILDINGS AND BUILDING ABATEMENT IN THE VILLAGE OF CHOUDRANT

WHEREAS, the Village desires to establish regulations relating to building abatement to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the repair or demolition of such structures.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF CHOUDRANT, LOUISIANA:

§1. An Ordinance relating to building abatement is enacted to provide as follows:

BUILDING ABATEMENT

Section 1-1. Findings of fact.

The purpose of this Ordinance is to promote the health, safety and welfare of the residents of the Village, and protect neighborhoods against physical, visual and economic deterioration. Pursuant to La. R.S. 33:4761-33:4768, the Board of Aldermen may condemn and cause to be demolished or removed any building or structure within the Village limits when such building or structure is in a dilapidated and dangerous condition.

Section 1-2 – 1-9. Reserved.

Section 1-10. Definitions.

For the purpose of this Ordinance, the following definitions shall apply:

- (a) ***Grave public emergency*** means that the condition of a building is such as to cause possible immediate loss or damage to persons or property.
- (b) ***Dilapidated*** means a building in a state of disrepair or ruin to the structural integrity of the building or structure
- (c) ***Board*** means the Municipal Building Board of Adjustments and Appeals.
- (d) ***Building Official*** means the inspector authorized and directed to enforce the provisions of this Ordinance.
- (e) ***Code*** means and includes any building code, electrical code, mechanical code, gas code, plumbing code, swimming pool code and housing code, adopted and provided for in this Ordinance , together with any other code or ordinance, or part thereof, adopted by the Mayor and Board of Aldermen which regulates the manner of construction of houses, buildings and other structures within the Village , and the nature, kind and quality of materials permitted to be used in such houses, buildings and other structures
- (f) ***Inspector*** means any person appointed by the Village to inspect any work which is regulated by this Ordinance, including the building inspector, electrical inspector or other inspector.

Section 1-11. Administration and enforcement.

The administration and enforcement of this Ordinance shall be the responsibility of the Public Works Director or his designated representative.

Section 1-12. Notice of violations.

- (a) Before the Board of Aldermen may condemn any building or structure within the Village limits, there must be submitted to it a written report recommending the demolition or removal of such building, which report shall be signed by the Public Works Director or his designated representative, or any other person authorized to act in such matters for the Village.

- (b) The Mayor or Public Works Director shall then serve notice to the owner of the building or structure, requiring him to show cause at a regular or special meeting of the Board of Aldermen as to why the building or structure should not be demolished and/or removed under the conditions set forth in this Ordinance .
- (c) The date and hour of the meeting of the Board of Aldermen shall be stated in the notice, which shall be served at least ten (10) days prior to the date of the hearing, except in case of grave public emergency. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner of such building or structure at his last known address. The notice may also be served by the Village marshal, or any sheriff, deputy sheriff or constable having jurisdiction and power to serve legal process, where the owner of the building or structure is found in the state, and the officer shall make return of the service as in cases conducted by ordinary process.
- (d) If the owner is absent from the state or unrepresented, then the notice shall be served upon the occupant of the condemned building or structure, if any, and also upon an attorney at law appointed by the Mayor to represent the absentee owner. Domiciliary service may be made as in ordinary cases.

Section 1-13. Grave public emergency.

- (a) *Condemnation.* In case of a grave public emergency, the Board of Aldermen may condemn the building after 24 hours' notice served upon the owner of such building, his agent or the occupant and the attorney at law appointed to represent the absentee owner, if any.

Section 1-14. Notice of proceedings.

Any notice served pursuant to this Ordinance may be filed with the recorder of mortgages in the parish. Once filed, such notice shall be deemed notice to all subsequent transferees. Any transferee of such property shall take the property subject to all recorded liens, mortgages and notices pertinent to such property.

Section 1-15. Decision of Board of Aldermen.

- (a) After the public hearing, if, in the opinion of the Board of Aldermen, the facts justify it, an order shall be entered condemning the building or structure and ordering that such building or structure be demolished or removed within a certain delay. If, however, repairs to such building or structure will correct or rectify the dilapidated, dangerous or unsafe condition of the building or structure, the Board of Aldermen may grant the owner of the premises the option of making such repairs, but, in such a case, the time of such repairs and the defects to be corrected shall be specified in the decision of the Board of Aldermen, and shall be reflected in the minutes of the meeting.
- (b) The decision and order of the Board of Aldermen shall be in writing, and shall be final, unless appealed from within five days, as provided in section 1-16.

Section 1-16. Appeal from decision.

- (a) The owner of the condemned building or structure, the occupant of such building or structure, if any, or the agent or other representative of the owner may appeal from the decision of the Board of Aldermen to the district court having jurisdiction over the property, which is the Third Judicial District Court of Lincoln Parish, State of Louisiana. The appeal shall be made by filing a suit against the Village, setting forth the reasons why the decision or order of the Board of Aldermen is illegal or improper, and the issue shall be tried de novo and by preference in the district court.
- (b) In the event of a grave public emergency, as declared by the Board of Aldermen, the owner of the condemned building or structure, who desires to prevent the demolition, repair or removal of such building or structure, must file a petition within 48 hours of the official declaration of the grave public emergency, and must, at the time of the filing of the petition, furnish such bond as may be fixed by the district court to cover any damage that may be caused by the condition of the building or structure.

Section 1-17. Compliance with decision; demolition by Village when owner fails to comply; notice.

- (a) If the owner of the condemned building or structure or his agent executes a contract in writing, obligating himself to the Board of Aldermen to have the work done within the required time, and upon furnishing to the Mayor a certified copy of the contract,

together with a bond to guarantee performance, the owner or his designated agent may proceed to demolish and remove the building or structure, or have it repaired, as the case may be, in accordance with the order of the Board of Aldermen.

- (b) If the owner or occupant of the condemned building or structure fails or refuses to comply with the decision of the Board of Aldermen, and fails to appeal from such decision within the legal delays provided in this Ordinance, then, and in such event, the Mayor or Public Works Director may proceed with the demolition or removal of the condemned property, in which case neither the Mayor nor the Board of Aldermen, individually or collectively, nor the Village, shall be liable in damages.

Section 1-18. Demolition notice.

- (a) Prior to the demolition or removal of the condemned building or structure by the Village, the Mayor or Public Works Director shall serve notice on the owner or his agent and on the occupant of the building, if applicable, or upon the attorney at law appointed to represent the minor, interdict or absentee owner, giving the time when work will begin upon the demolition or removal of the building or structure.
- (b) The Board of Aldermen may request, and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures or public nuisances. This subsection shall be applicable when the budget for the demolition and removal of condemned buildings, structures or public nuisances has been expended by the Board of Aldermen, and the request to the adjutant general is accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the Village.
- (c) If all procedural protections and substantive restraints have been adhered to by the Board of Aldermen, the Village and its personnel, and the national guard and their personnel, shall not be liable to the owner of the condemned building, structure or public nuisance for any damages sustained resulting from the demolition of the building, structure or public nuisance.

Section 1-19. Lien and privilege for cost of demolition, removal and maintenance by Village; interest; attorney fees.

- (a) The Village shall have a privilege and lien upon an immovable and its improvements, and the owner shall be personally liable for the cost to the Village of:
 - (1) Maintenance of the immovable or improvements; and
 - (2) Demolishing and/or removing a building or other structure situated upon the immovable or improvements, and all attorney fees incurred by the Village in connection with such demolition or removal.
- (b) For the purpose of this section, the term "maintenance" shall include, but shall not be limited to, grass cutting, weed abatement and trash and garbage removal.
- (c) The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the Village and reasonable opportunity to be heard, to pay the costs incurred by the Village.
- (d) The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the Mayor in the mortgage records of the parish in which the immovable is situated. The affidavit shall include a description of the property which is sufficient to reasonably identify the immovable and a statement of facts listing the approximate costs incurred by the Village.
- (e) The privilege and lien shall be enforced by ordinary process in the district court having jurisdiction of the immovable within three years after such privilege and lien is perfected. Alternatively, the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable as any ordinary property tax lien assessed against the property. Such lien and privilege may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the Village has incurred such costs as constitute the lien and privilege on the property, the Mayor and/or the Public Works Director may send an attested bill of such costs and expenses which constitute the lien and privilege to the treasurer or property tax director, who shall add the amount of such bill to the next tax bill of the owner of such property. The lien obtained by the Village pursuant to proper

notification and filing shall include not only the costs provided for in subsection (a) of this section, but such lien shall include all attorney's fees and/or all costs of court incurred in the location and notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements. The Village may also recover interest on the amount secured by the lien. The interest shall not exceed the rate of legal interest as provided in C.C. Art. 2924 and shall be computed from the date of recordation of the lien until such lien is paid. The Village's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages pursuant to La. R.S. 33:4762(D), regardless of the date on which the Village's lien and privilege is perfected, except that the Village's lien and privilege will not prime other tax liens against the property.

- (f) The lien shall not be canceled until after payment of all amounts, including costs, attorney fees and interest.
- (g) In addition to the lien and enforcement procedures authorized under this section, the Village has a cause of action against the owner personally for the costs incurred by the Village, if such owner is not indigent and has the ability to pay a judgment obtained by the Village. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.
- (h) If property which may be subject to a lien and privilege granted in favor of the Village under this section is owned in indivision and the owners in indivision, with their proportionate share in the property, are listed separately by the tax assessor on the ad valorem tax roll for the Village, then the Village shall notify each owner in indivision of his liability under this section.
 - (1) Upon failure of each owner in indivision to pay his proportionate share on the charges incurred under this section, that part of the property for which the charges are not paid shall be subject to a lien and privilege in favor of the Village, as provided in this section.
 - (2) Notwithstanding the provisions of subsection (f) of this section to the contrary, upon payment by an owner in indivision of his proportionate share listed on the ad valorem tax roll for the Village of the charges, attorney fees and interest incurred under this section, and after certification of such proportionate interest by the tax assessor, the lien and privilege granted under this section shall be removed from the proportionate interest of the paying owner in indivision. If outstanding charges levied under this section are added to the annual ad valorem tax bill, the proportionate payment by the paying owner in indivision shall be reflected on the bill and as interest in the property free of such charge shall be distinguished on the tax bill.
 - (3) Notice of the lien and privilege required in this section shall be made upon the owner's indivision at their actual address, or the last known address listed on the tax rolls of the parish.

Section 1-20. Attorney to represent absentee minor or interdict.

If the dilapidated building or structure is unoccupied and its owner is absent from the state, or his whereabouts are unknown, and he is unrepresented, or if the building is owned by a minor who has no tutor, or an interdict who has no curator, the Mayor shall appoint an attorney at law to represent the absentee owner, minor or interdict upon whom the notices and other proceedings provided for in this Ordinance shall be served. The attorney shall be paid a reasonable fee to be taxed as cost.

Section 1-21 – 1-29. Reserved.

Section 1-30. Conflict of codes and ordinances.

If there should be a conflict between this Ordinance and any state ordinance, statute or code, the regulation with the more restrictive requirements shall apply.

§2. All other Ordinances, or any parts thereof, which are in conflict with the provisions of this Ordinance, are hereby repealed. To the extent that any provision or provisions of this Ordinance are inconsistent or in conflict with any other provision of this Ordinance or any regulation of the Village, the provisions of this Ordinance shall be deemed to control.

§3. If any one or more of the provisions of this Ordinance shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Ordinance, but this Ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein and such provisions are declared severable. Any constitutional or statutory provision enacted after the date of this Ordinance which validates or makes legal any provision of this Ordinance which would not otherwise be valid or legal, shall be deemed to apply to this Ordinance.

§4. This Ordinance shall become effective after final adoption and publication of the same in the manner prescribed by law or on August 3rd, 2020, whichever last occurs.

This Ordinance was introduced on June 22, 2020, by Alderman Patton; Notice of Public Hearing having been published on July 24, 2020, and said Public Hearing having been held, the title having been read and the Ordinance considered, a motion to adopt was made by Alderman Patton, seconded by Alderman Croswell, a record vote was taken and, the following result was had:.,

YEA: Croswell, Maier, Patton

NAY: None

ABSENT: None

WHEREUPON, the presiding officer declared the above Ordinance duly adopted on the 3rd day of August, 2020.

CELESTE BUTLER, CLERK

BILL SANDERSON, MAYOR