



CITY OF PATASKALA PLANNING AND ZONING COMMISSION

City Hall, Council Chambers
621 West Broad Street
Pataskala, Ohio 43062

STAFF REPORT

March 6, 2019

Code Amendment Application ZON-19-002

Applicant:	City of Pataskala
Location:	City Wide
Request:	Requesting to amend Chapter 1315 – Unsafe Structures of the Pataskala Code pursuant to Section 1217.10 of the Pataskala Code.

Description of the Request:

The proposed amendment would amend the existing regulations in Section Chapter 1315 of the Pataskala Code to correct a discrepancy with the time allotted to demolish a building and to provide provisions for emergency demolitions.

Staff Summary:

In July of 2017, Section 1221.06 was added to the Pataskala Code to establish regulations for the demolition of structures. As part of these regulations, a demolition permit was valid for a period of 90 days following the date of approval.

Recently the Planning and Zoning Department became aware that Section 1315.03 also has provisions for the demolition of structures. The time-period permitted within Section 1315.03 is 60 days to complete the demolition of a structure, which conflicts with the provisions of Section 1221.06. The 60-day period of Section 1315.03 also conflicts with Section 1315.06, which also allows 90 days.

The following sections of the Code have been provided to illustrate the conflict. The time periods and proposed amendment have been highlighted.

Section 1221.06 – Demolition Requirements

- (a) Permit Required: No person, firm, corporation, or other entity shall commence demolition of any building, structure, or part thereof over 200 square feet without first obtaining a permit from the Planning and Zoning Department. A demolition permit shall be valid for a period of **ninety (90)** days after it is issued.

1315.03 – Building Hazards or Violations; Notices; Demolition Orders

- (e) In the event that the Inspector considers that the costs of making such repairs would exceed the tax valuation of the structure or building or dwelling complained of, he may order the building to be demolished. Such demolition shall be started not later than thirty days and be completed within **sixty** days after the issuance of this order.

1315.06 – Order to Demolish Building

If after the initial inspection of the building is in such state of disrepair that the Building Inspector feels that the cost of making such repairs as are necessary would exceed the possible economic useful life of the building, he may order the building demolished with the specific requirement that he shall enumerate all faults which he finds in the building and all code sections which he finds to have been violated. If the landowner decides to demolish the building, he shall be given a period of ninety days in which to complete such demolition, leveling and restoration of the land so that no open basements or walls will be left standing and the lot restored to its original ground level.

The Planning and Zoning Department presented the proposed amendment to the Development Committee on February 4, 2019. The Development Committee agreed with the proposal to align the time-period in which a building must be demolished but indicated they would like to see provisions added for emergency demolitions.

Below in red are the proposed provisions added to Chapter 1315 to addresses emergency demolitions

1315.06 ORDER TO DEMOLISH BUILDING.

- (a) If after the initial inspection, the building is in such a state of disrepair that the Building Inspector feels that the cost of making such repairs as are necessary would exceed the possible economic useful life of the building, he may order the building demolished with the specific requirement that he shall enumerate all faults which he finds in the building and all code sections which he finds to have been violated. If the landowner decides to demolish the building, he shall be given a period of ninety days in which to complete such demolition, leveling and restoration of the land so that no open basements or walls will be left standing and the lot restored to its original ground level. (Ord. 84-971. Passed 6-4-84.)
- (b) If the Building Inspector determines that the building or structure poses and imminent danger and immediate demolition is required for the preservation of public safety because of an unsafe or hazardous condition, an emergency may be declared, and the City may secure and use necessary labor to perform the demolition as expeditiously as possible to protect the public health, safety and welfare.
- (c) Any order to demolish a building shall be automatically referred to Council as if the same were appealed on the order of the Building Inspector and Council shall make all orders concerning demolition.

A redline version of the proposed amendment is attached to the Staff Report as Exhibit A.

Staff Review: *The following summary does not constitute recommendations but merely conclusions and suggestions from staff.*

Changing the time-periods will not only remove the discrepancy in Chapter 1315 but will also align with the demolition regulations in Section 1221.06 – Demolition Requirements. The provisions for emergency

demolitions will allow the City to take appropriate action if a building or structure poses an immediate threat to the public welfare.

Following a recommendation from the Planning and Zoning Commission, the amendment will proceed to City Council for consideration.

Code Amendment Approval:

According to Section 1217.04 of the Pataskala Code, the Planning and Zoning Commission shall consider approval of a code amendment if the proposal:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or this Code.
2. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. Will not be hazardous or disturbing to existing or future neighboring uses.
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
6. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor, air or water pollution, or potential for explosion.
7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
8. Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

Department and Agency Review

- Zoning Inspector – No Comments
- Public Service Department – No Comments
- City Engineer – No Comments
- Pataskala Utilities – No Comments
- Police Department – No Comments
- West Licking Joint Fire District – No Comments
- Southwest Licking Schools – No Comments
- Licking Heights Schools – No Comments
- Licking County Health Department – No Comments
- SWLCWSD – No Comments

Modifications:

Should the Planning and Zoning Commission choose to recommend approval of the amendment, the following modifications may be considered:

- None

Resolution:

For your convenience, the following resolution may be considered by the Planning and Zoning Commission when making a motion:

“I move to recommend approval of application number ZON-19-002 pursuant to Section 1217.10 of the Pataskala Code. (“with the following modifications” if modifications are to be placed on the approval).”

EHXIBIT A

**CHAPTER 1315
Unsafe Structures**

1315.01	Powers and duties of Building Inspector.	1315.08	Appeal of order.
1315.02	Inspections.	1315.09	Order to be final; procedure.
1315.03	Building hazards or violations; notices; demolition orders.	1315.10	Right of entry.
1315.04	Extensions of time.	1315.11	Hindrance or interference with Building Inspector.
1315.05	Reinspection by Building Inspector.	1315.12	Failure to comply with order.
1315.06	Order to demolish building.	1315.13	Definitions.
1315.07	Appeal to Council.		

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26 et seq.

1315.01 POWERS AND DUTIES OF BUILDING INSPECTOR.

(a) Whenever any resident of the City files his or their written complaint alleging that any building or other structure within the City is unsafe or in need of repairs which have not been made by the owner thereof; or

(b) When directed in writing by Council through its Clerk to inspect any building for the purpose of determining whether or not such building should be repaired or demolished, the Building Inspector shall cause an inspection of said building to be made personally. The Building Inspector shall give written notice to the owners thereof of his intention to do so at least five days in advance of such inspection.

(Ord. 84-971. Passed 6-4-84.)

1315.02 INSPECTIONS.

When making inspections in response to the written complaint from any citizen or in response to the written direction of Council, the Building Inspector shall make observation to determine if there is a violation of any of the following codes or regulations:

- (a) The Ohio Basic Building Code.
- (b) National Electrical Code.
- (c) The Licking County Plumbing Code.
- (d) The Ohio Fire Code.
- (e) The lack of any fire escape in multiple family dwellings as defined in this chapter.

- (f) Lack of proper and adequate water supply according to the Licking County Plumbing Code.
- (g) The failure to properly maintain sanitary facilities sufficient to comply with the Plumbing Code of Licking County.
For this purpose the Inspector is hereby authorized to request the assistance of the Licking County Board of Health and to follow their recommendations relative to the correction of any violation of the Plumbing Code of Licking County but otherwise their recommendations shall be deemed to be advisory and need not be followed by the Inspector.
- (h) Lack of or inadequate fire extinguishers in a residential dwelling designed for the occupancy and being occupied by one or two families for rental.
- (i) The lack of covered watertight containers for the deposit of garbage and other household wastes.
- (j) The failure to properly maintain and control any fire in stoves or furnaces used in heating of said dwelling or structure.
- (k) Failure to properly vent any gas appliance located in said dwelling or structure by providing airtight smoke pipes and chimneys within said building.
- (l) The lack of or failure to observe ordinary housekeeping procedures such as may constitute a threat to public health, safety and the general welfare of the inhabitants of any such structure or of the neighborhood.
- (m) The OBOA One, Two and Three Family Dwelling Code.
(Ord. 84-971. Passed 6-4-84.)

1315.03 BUILDING HAZARDS OR VIOLATIONS; NOTICES; DEMOLITION ORDERS.

After the completion of his inspection, the Building Inspector of the City shall:

- (a) If the building is found to have no hazards as set forth in Section 1315.02; notify the person making the complaint or Council that no action is necessary and that none will be taken.
- (b) If hazards as enumerated in Section 1315.02 have been found; notify the owner and the tenants in writing by certified mail return receipt requested of the violations of this chapter and order them to either repair or correct the same making reference to the various sections of any code on which a violation is observed by specific mention thereof.
- (c) If the violation of the particular section of the code is of such a nature as to require its immediate correction for the preservation of the public health, safety of any occupant or of the public safety or of the general welfare of the community, he shall so state and in which case the owner thereof shall have such repairs or corrections made as the case may be.
- (d) In the event that the violations complained of by the Inspector are found to be of such a nature that additional time is required to make the corrections thereto, he shall so indicate and shall require that work be commenced upon the correction of said items within thirty days and be completed within sixty days.
- (e) In the event that the Inspector considers that the costs of making such repairs would exceed the tax valuation of the structure or building or dwelling complained of, he may order the building to be demolished. Such demolition shall be started not later than thirty days and be completed within ~~sixty~~ ninety days after the issuance of this order.

~~Any order to demolish a building shall be automatically referred to Council as if the same were appealed on the order of the Building Inspector and Council shall make all orders concerning demolition.
(Ord. 84-971. Passed 6-4-84.)~~

1315.04 EXTENSIONS OF TIME.

If the owner, in writing, shall request additional time in which to complete any of the work mentioned in the Inspector's orders he may do so. The Building Inspector shall have the authority to grant additional time for the completion of the repairs for not longer than the total length of time specified in his original order.

In the event that the owner desires an additional extension of time, he shall make a written request therefor addressed to Council and delivered to the Clerk of Council who shall be the agent of Council. Thereupon, Council shall consider and request and allow, modify, or deny in whole or in part the request for extension of time. Notice of any allowance, modification, or denial shall be made by the Clerk of Council by certified mail directed to the landowner, his agent, or attorney and a copy thereof shall be delivered to the Building Inspector for his record. (Ord. 84-971. Passed 6-4-84.)

1315.05 REINSPECTION BY BUILDING INSPECTOR.

At the end of the allowable period for the making of repairs (the allowable period being defined as the original time granted by the Building Inspector plus any extension granted by him plus any extension granted by Council), the Building Inspector shall enter upon the premises and reinspect same to determine if the repairs as ordered have been properly made. If the repairs have been properly made, the Building Inspector shall advise the landowner, his agent, or attorney, in writing and keep a copy for his own records and the case shall be considered to be closed.

In the event that there is certain work to be completed or finished, the Building Inspector shall notify the owner, his agent or attorney of the necessity of completing this work and shall permit an additional ten days for the completion of said work. Such notice of the necessity to complete the work shall be given in writing by certified mail, return receipt requested and shall be addressed to the landowner, his agent or attorney and the Building Inspector shall retain a copy for his own records.

No further extensions of time shall be granted by the Building Inspector for the completion of the work. (Ord. 84-971. Passed 6-4-84.)

1315.06 ORDER TO DEMOLISH BUILDING.

- (a) If after the initial inspection, the building is in such a state of disrepair that the Building Inspector feels that the cost of making such repairs as are necessary would exceed the possible economic useful life of the building, he may order the building demolished with the specific requirement that he shall enumerate all faults which he finds in the building and all code sections which he finds to have been violated. If the landowner decides to demolish the building, he shall be given a period of ninety days in which to complete such demolition, leveling and restoration of the land so that no open basements or walls will be left standing and the lot restored to its original ground level. (Ord. 84-971. Passed 6-4-84.)
- (b) If the Building Inspector determines that the building or structure poses and imminent danger and immediate demolition is required for the preservation of public safety because of an unsafe or hazardous condition, an emergency may be declared, and the City may secure and use necessary labor to perform the demolition as expeditiously as possible to protect the public health, safety and welfare.
- (c) Any order to demolish a building shall be automatically referred to Council as if the same were appealed on the order of the Building Inspector and Council shall make all orders concerning demolition.

1315.07 APPEAL TO COUNCIL.

In the event that the Building Inspector shall order repairs or shall order the demolition of any building within the corporate limits of the City and the owner shall not agree with the order of the Building Inspector in any particular, the landowner, his agent or attorney, may within fifteen days after the date of the original issuance of the order, file in writing their appeal from the order of the Building Inspector and ask that Council hold a hearing, review the findings of the Building Inspector, and uphold, modify or deny the appeal. The owner, his agent or attorney shall deliver a written copy of the order appealed from together with his petition for Council's consideration to the Clerk of Council and thereupon the Clerk of Council shall inform the Building Inspector, and the Law Director, that such an appeal has been filed and that it will be considered at the next meeting of Council taking place after fifteen days from the date that he receives notice of the appeal to Council.

At the hearing which shall be held with Council, the evidence to be given by the Building Inspector, by witness or witnesses for the owner, shall be confined solely to the matter of the report of the Building Inspector relative to the condition of the building or structure complained of, and no other evidence shall be permitted to be received by Council.

The owner may appear in person with counsel and be permitted to examine and cross examine the witnesses or the Building Inspector. On behalf of the City the Law Director shall represent the Building Inspector and shall also be permitted to examine and cross examine any witnesses, including the Building Inspector.

At the conclusion of the hearing, or within ten days thereafter, Council shall determine whether or not to uphold the Building Inspector in his recommendations or whether or not the same might be modified in some instances or respects, or denied in full or in part. In any event Council shall render its written report of its hearing and the Clerk of Council shall cause copies of the recommendation of Council to be furnished to the Law Director, any counsel for the owner, and the owner himself, by certified mail, return receipt requested. If the recommendation of the Building Inspector is modified, the report of Council shall state in what ways the same is modified and shall order the repair or demolition of the building or other structure, or the commencement of the repairs or demolition within not less than thirty days from the date that the report was filed with the Clerk of Council. The Clerk of Council shall within five days after the receipt of the report of Council cause the same to be mailed by certified mail to all parties.

In the event that the owner, or his agent, or attorney, disagrees with the report of Council or the recommendations and orders therein made, such owner, or agent or attorney shall have a period of thirty days in which to file an appeal in the Court of Common Pleas of Licking County, seeking a restraining order enjoining Council and the Building Inspector from enforcing the order and recommendation of Council.

(Ord. 84-971. Passed 6-4-84.)

1315.08 APPEAL OF ORDER.

In the event that the owner or agent, or counsel for the owner shall appeal said order and shall obtain a temporary restraining order, such action shall be advanced on the docket of said court in accordance with the requirements of Ohio R.C. 715.26.2 and shall be heard by said court as soon as the same is possible in accordance with the Rules of Civil Procedure and the statute. The evidence to be heard shall be confined within the same limitation as the same was when originally heard by Council.

(Ord. 84-971. Passed 6-4-84.)

1315.09 ORDER TO BE FINAL; PROCEDURE.

In the event that the recommendation of Council modifies or confirms the recommendation of the Building Inspector and no appeal is filed on such order, then the same shall become final as against the owner.

If an appeal is filed and an order of modification entered by the Court of Common Pleas, Court of Appeals, or the Ohio Supreme Court, modifying in whole or in part or sustaining in whole or in part the order of Council, such order once issued and not appealed shall become final.

Upon the order becoming final, work shall be commenced in accordance with the order and the failure of the owner to comply with such order shall be deemed to be a misdemeanor of the first degree and punished as prescribed in the General Offenses Code.

(Ord. 84-971. Passed 6-4-84.)

1315.10 RIGHT OF ENTRY.

The Building Inspector or any of his designated agents may at any reasonable hour, enter any dwelling, structure or premises within the Municipality to perform any duty imposed on him by this Building Code, provided that permission to enter is obtained from the occupant or, in the case of unoccupied property, from the owner or his agent. If such permission is refused or is otherwise unobtainable, a search warrant must be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made at any time and no search warrant is necessary. No person shall refuse to permit such emergency entry or inspection, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such entry or inspection.

1315.11 HINDRANCE OR INTERFERENCE WITH BUILDING INSPECTOR.

Any person interfering with, molesting or otherwise restraining such inspection shall be guilty of a misdemeanor of the first degree and shall be punished as according to the General Offenses Code. (Ord. 84-971. Passed 6-4-84.)

1315.12 FAILURE TO COMPLY WITH ORDER.

If the owner neglects or fails to carry out the requirements of any final order issued by the Building Inspector, said order once it shall become final as against said premises, the Finance Director shall, upon completion of the work, including any work done by City employees, proceed to certify the cost thereof, plus fifty percent (50%) for overhead and expenses in connection therewith, which shall include supervision of such employees, to the Auditor of Licking County, certifying, levying and assessing the same to be collected as a special assessment upon the property described in the order.

(Ord. 84-971. Passed 6-4-84.)

1315.13 DEFINITIONS.

Words and phrases used in this chapter shall be liberally construed and shall have the following definitions:

- (a) "Building Inspector" means the City Administrator or his designee.
- (b) "Order" means that notice given by the Building Inspector and signed by him requiring that the landowner make repairs or demolish his building or structure.
- (c) "Building or structure" means any dwelling house for the occupancy of less than four families or any other structure such as a barn, garage, accessory building or outbuilding situated upon any lot within the corporation of the City which may be the subject of an inspection by the Building Inspector.
- (d) "Landowner" means the person holding legal title to the particular plot or parcel of land located within the City upon which an order of the Building Inspector might have been issued.

- (e) “Tenant” means the person occupying the premises within the City, not the landowner whether or not rent is paid to the landowner or not.
- (f) “City of Pataskala” means the Municipality of Pataskala, Ohio, within its corporation boundaries.
- (g) “Ohio Basic Building Code” means the code of regulations adopted by the Division of Industrial Relations in accordance with the Administrative Procedure Act of Ohio relative to buildings or structures which are located within the corporate limits of the City.
- (h) “Ohio State Fire Code” means that document adopted by the State Fire Marshal’s office in accordance with the Administrative Procedure Act regulating exits, electrical systems, electrical installations, and other details having to do with fire safety within the State.
- (i) “Licking County Plumbing Code” means the code adopted by the Board of Health of Licking County relative to the installation of plumbing in any building located in the City.
- (j) “National Electrical Code” means that document issued by the Fire Underwriter’s Laboratory governing the installation of electrical wiring and fixtures, motors, and other installations.
(Ord. 84-971. Passed 6-4-84.