

**CITY COMMISSION
CITY OF OTSEGO
Allegan County, Michigan**

Commissioner Misner, supported by Commissioner Gilmer moved the adoption of the following ordinance:

ORDINANCE NO. 161

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF
OTSEGO TO REGULATE BLIGHT AND BLIGHTED PROPERTIES WITHIN
THE CITY**

THE CITY OF OTSEGO ORDAINS:

Sec. 1. Amendment. Article VI, "Blight," Section 10-260 through Section 10-273, is added to Chapter 10, "Building and Building Regulations," of the Code of Ordinances of the City of Otsego, Michigan, to read as follows:

Article VI. Blight.

Sec. 10-260. Purpose. It is the purpose of this article to: (1) prevent blight and the deterioration of buildings, structures and property; (2) promote the property maintenance standards of the City; and (3) reduce the devaluation and maintain the neighborhood character of property located in close proximity to certain blighted conditions.

Sec. 10-261. Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings, unless the context in which they are used specifically indicates otherwise:

- (a) *Blight* or *Blighted* means property located within the City of Otsego, Michigan, or any building, structure or dwelling located thereon, marked by a pattern of physical deterioration, substandard maintenance, unsafe and/or unsanitary conditions.
- (b) *Building Material* means any lumber, bricks, concrete, blocks, plumbing materials, electrical wiring or equipment, HVAC ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings, structures or dwellings.
- (c) *Deterioration* means to weaken, disintegrate, corrode, rust or decay and lose effectiveness.
- (d) *Enforcement Official* means the individual designated by resolution of the City Commission to enforce this article.
- (e) *Junk* means any dismantled, partially dismantled, broken, and/or inoperable object, machinery or equipment, and/or any object or equipment unused for its originally intended purpose, including, but not limited to, furniture intended for indoor use which is placed outdoors, stoves, refrigerators, freezers, cans, barrels, implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons or crates.
- (f) *Occupant* means any person, other than a legal or equitable title holder, occupying or possessing all or part of a building, structure, dwelling or property.
- (g) *Owner* means any person having a legal or equitable interest in all or part of a building, structure, dwelling or property.
- (h) *Person* means all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by agent or employee.

(i) *Trash and Rubbish* means combustible and noncombustible waste materials, including, but not limited to, animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, leaves, grass and other yard waste.

Sec. 10-262. In General.

(a) It shall be unlawful for any owner or occupant to keep or maintain any blighted property, blighted condition, or any blighted building, structure or dwelling.

(b) All persons who violate any of the provisions of this article, whether as owner, occupant, lessee, agent, operator or employee shall, except as otherwise provided herein, be equally liable.

Sec. 10-263. Maintenance of Exterior Property Areas.

(a) All property owners or occupants shall be responsible for maintaining all exterior property areas in compliance with the following minimum requirements:

(1) Except for temporary accumulation in appropriate containers prior to periodic collection for proper disposal, all exterior property areas shall be properly maintained in a clean and sanitary condition, free from trash, rubbish, junk, physical hazards, rodent or insect harborage and infestation.

(2) All stored firewood shall be in neat, orderly stacks, unless screened from view from all adjoining properties.

(3) The storage and accumulation of any building material shall only be for a period that is reasonably necessary for the immediate use of such materials, but in no event longer than 60 days. Building materials must be piled off the ground so as not to become a suitable environment for rodents or similar vermin.

(4) Operable equipment, machinery, building materials, or other items shall not be stored for periods of longer than 60 days in any truck trailer or other type of trailer, with or without its wheels.

(b) Failure to maintain all exterior property areas in compliance with the requirements of this section shall constitute a blighted condition in violation of this article.

Sec. 10-264. Disposal of Trash and Rubbish.

(a) Every owner or occupant of a building, structure or dwelling shall dispose of trash and rubbish in a clean and sanitary manner by placement into an approved disposal facility or approved containers.

(b) The operator of every establishment producing trash and rubbish shall provide, and at all times cause to be utilized, leak-proof containers provided with close-fitting covers for storage of trash and rubbish until its removal from the premises for disposal.

(c) Failure to properly dispose of trash and rubbish in compliance with the requirements of this section shall constitute a blighted condition in violation of this article.

Sec. 10-265. Abandoned Automobiles.

(a) No person owning or occupying any lot or property in the City shall store, place, or allow to be stored or placed on said property any abandoned, dismantled, partially dismantled, or wrecked automobile for a period of time in excess of ten (10) days. For purposes of this ordinance an “abandoned, dismantled, partially dismantled, or wrecked automobile” shall be mean an automobile which cannot be operated under its own power or cannot function as it was intended and designed to function.

(b) This section shall not apply to the lawful storage of automobiles in a wholly enclosed garage or other wholly enclosed structure or to any storage which shall be a conforming use under the City Zoning Ordinance or a variance permit issued under the zoning ordinance.

(c) Failure to comply with the requirements of this section shall constitute a blighted condition in violation of this article.

Sec. 10-266. Buildings, Structures or Dwellings.

(a) It shall be unlawful for any owner or occupant to keep or maintain any building, structure or dwelling, whether occupied or vacant, in any of the following conditions:

- (1) With exterior walls or surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, soffits, facia, balconies and decks, or roof coverings that have become deteriorated to the extent they do not provide adequate weather protection, are peeling, flaking, rusting and/or chipped, or that show evidence of the presence of termite infestation or dry rot.
- (2) With damaged or missing exterior siding or roofing materials.
- (3) With broken or missing windows or doors.
- (4) With exterior walls, fences or retaining walls damaged or deteriorated to the extent that the disrepair is visible from the public rights-of-way.
- (5) With roof or structural deterioration, damage or faulty construction.
- (6) With cracked or broken foundation or chimney.
- (7) Partially completed and not presently under construction pursuant to a valid permit issued by the Building official.
- (8) Vacant and unsecured so as to allow access by persons, animals or the elements.
- (9) With utilities disconnected, destroyed, removed or rendered ineffective for a period of one year or more.

(b) Buildings, structures or dwellings under construction with valid permits issued by the City shall not be in violation of this section.

(c) Failure to maintain all buildings, structures or dwellings in compliance with the requirements of this section shall constitute a blighted condition in violation of this article.

Sec. 10-267. Notice to abate.

Whenever a blighted condition or a blighted property, building, structure or dwelling is found to exist within the City, the enforcement official shall give ten (10) days written notice to the owner or occupant of such property, building, structure or dwelling.

Sec. 10-268. Contents of notice.

(a) The notice to abate a blighted condition, blighted property, building, structure or dwelling issued under the provisions of this article shall contain:

- (1) The location of the blighted property, building, structure or dwelling;
- (2) A description of what constitutes a violation of this article;
- (3) A statement of acts necessary to abate the violation of this article along with a date by which compliance must be achieved.

Sec. 10-269. Service of notice.

The notice shall be in writing and shall be served either personally or by certified mail, return receipt requested, addressed to the person responsible for the violation of this article at his or her address as shown on the City's tax assessment records.

Sec. 10-270. Abatement.

If the person responsible for the blighted condition, property, building, structure or dwelling fails, neglects or refuses to comply with the notice to abate issued by the enforcement official, the enforcement official shall take all necessary action to enforce the notice, including seeking an order from a court authorizing the City to retain all necessary labor and materials to perform any removal, demolition, abatement, repairs, maintenance or other required work as expeditiously as possible. All costs for such abatement shall be the responsibility of the property owner as set forth in this article.

Sec. 10-271. Emergency abatement by City.

Notwithstanding the foregoing, when, in the opinion of the enforcement official there is actual and immediate danger to the public or occupants of a particular premise caused by a nuisance on such premise, the enforcement official is hereby authorized and empowered, without any notice or hearing to order and require such premises to be vacated. The enforcement official shall immediately post the premises warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

Sec. 10-272. City's costs.

(a) The actual cost, plus accrued interest at the rate of 1% per month from the date of the completion of the work, incurred by the City in its abatement of a blighted condition, blighted property, building, structure or dwelling, in accordance with Section 10-270 and/or 10-271 of this article, shall be charged by invoice to the owner(s) of the property on which the violation was located. If payment is not received, the costs plus accrued interest shall be added to the next regular tax bill forwarded to the owner(s) of such property by the City and such costs shall be due and payable at the time of payment of such tax bill.

(b) Where the full amount due the City is not paid by the owner(s) within 60 days after the abatement of a blighted property, building, structure or dwelling pursuant to this article, the City Treasurer may cause to be recorded a sworn statement showing the cost and expense incurred for the abatement, the date and property on which said abatement was done. The recordation of such sworn statement shall constitute a lien on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection until final payment has been made. The costs and expenses shall be collected in the manner fixed by law for the collection of taxes, and, further, shall be subject to a delinquent penalty of 1% per month in the event it is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent. Sworn statements recorded in accordance with this section shall be *prima facie* evidence that all legal formalities have been complied with and that the abatement has been properly and satisfactorily done, and shall be full notice that the amount of the statement, plus interest, constitutes a charge against the premises designated or described in the statement and is due and collectible as provided by law.

(c) The City may recover the full cost of its abatement of a blighted property, building, structure or dwelling by single-lot special assessment in accordance with this code of ordinances.

Sec. 10-273. Penalty. In lieu of or in addition to any abatement action undertaken in accordance with this article:

(a) A first violation of any provision of this article, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than fifty dollars (\$50.00).

(b) A second violation of any provision of this article, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than one hundred fifty dollars (\$150.00).

(c) A third or subsequent violation of any provision of this article, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than three hundred dollars (\$300.00).

(d) Each day of continued violation shall constitute a separate offense.

(e) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

Section 2. Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Stacey Withee, Nick Breedveld, and Jim Misner.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

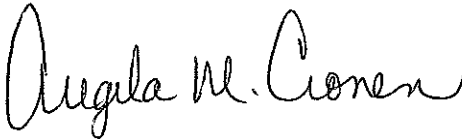
ABSENT: Commissioners: None.

ORDINANCE ADOPTED.

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Commission of the City of Otsego at a regular meeting held on July 2, 2018.

Dated: July 2, 2018



Angela Cronen, City Clerk

Introduced: June 18, 2018

Adopted: July 2, 2018

Published: June 21, 2018

Effective: July 14, 2018

Published in: Union Enterprise June 21, 2018