

**CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 468**

**AN ORDINANCE TO AMEND CHAPTER 16 OF THE ALLEGAN CODE OF
ORDINANCES TO PROVIDE FOR THE ABATEMENT OF BLIGHT, AND TO
RELOCATE PROVISIONS PERTAINING TO STAND ALONE FURNACES TO A NEW
CHAPTER 7, ARTICLE VI**

The City of Allegan Ordains:

Section 1. Renaming of Chapter. Chapter 16 of the Allegan Code of Ordinances, currently titled "Public Nuisances," is renamed "Blight."

Section 2. Amendment. Chapter 16 of the Allegan Code of Ordinances is amended to read in its entirety as follows:

Chapter 16. Blight.

Sec. 16-1. Short title.

This chapter shall be known and may be designated as "The Blight Ordinance of the City of Allegan."

Sec. 16-2. Definitions.

Section 1. As used in this chapter, the following terms are defined below:

- (a) *Blighted structure or building*. Any dwelling, garage, accessory or outbuilding, or any factory, shop, store, office building, warehouse, fence, or any other structure or part of a structure which:
 - (1) Because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended;
 - (2) Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the city;
 - (3) Is not structurally sound, weather-tight, waterproof or vermin-proof;
 - (4) Is not covered by a water resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration;
 - (5) Which causes or tends to cause devaluation of the subject property or other properties in the area; or
 - (6) Which has any of the following conditions:
 - (A) Peeling paint.
 - (B) Sagging and deteriorating roof.
 - (C) Missing and/or damaged siding.
 - (D) Broken or deteriorating window.
 - (E) Unfinished exterior.
 - (F) Collapsing porch or deck.
 - (G) Cracked and broken foundation/chimney.
 - (H) Graffiti.

- (b) *Building material*. Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings or structures.
- (c) *Enforcement officer*. The city manager, city building inspectors, community development coordinator, and any other individual that has been given enforcement duties by the city manager.
- (d) *Graffiti*. Any mark or marks on any surface or structure made without the prior permission of the property owner and made in any manner, including but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching. Chalk marks on sidewalks are not graffiti.
- (e) *Inoperable Vehicle*. Any motor vehicle which is inoperative for any reason such as being in a state of disassembly, disrepair, stripped, dismantled or which cannot be operated under its own power or cannot function as it was intended and designed to function legally on the roadway, but shall exclude vehicles in process at auto sales and dealership service facilities and auto engine and body repair shops which are to be repaired and made operable within ninety (90) days
- (e) *Issuance of the notice*. Any of the following events:
 - (1) The posting of the notice on the premises, in conjunction with the mailing of the notice to the responsible party's last known address by first class mail;
 - (2) Personal delivery of the notice to the responsible party;
 - (3) The responsible party's receipt of the notice by certified mail or email, as indicated in a notification of receipt; or
 - (4) The reading of the notice to the responsible party over the phone.
- (f) *Junk*. Any abandoned, discarded, unusable objects or equipment, any object or equipment unused for its originally intended purpose, including, but not limited to, furniture, furniture intended for indoor use which is placed outdoors, stoves, refrigerators, freezers, cans, barrels, farm implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons or crates.
- (g) *Responsible party*. A person who violates any of the provisions of this chapter, whether as owner, occupant, lessee, agent, operator, servant, or employee, except as herein otherwise provided.
- (h) *Trash and rubbish*. Any and all forms of debris not herein otherwise identified, except domestic refuse stored in appropriate containers prior to periodic collection for proper disposal and domestic refuse stored in appropriate containers for composting purposes. The term "trash, rubbish or refuse" shall also include any combustible and noncombustible waste material, including, but not limited to, animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, leaves, brush, tree limbs, wood, lumber, grass or other yard waste.

Sec. 16-3. Blighted structures or buildings prohibited.

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, building, dwelling, garage, outbuilding, factory, shop, store or warehouse in the city.

Sec. 16-4. Blighted exterior and maintenance requirement of property.

Section 2. It shall be unlawful for any person to fail to improve and maintain all property under the person's control so as to comply with the following minimum requirements:

- (a) All exterior property areas shall be properly maintained in a clean and sanitary condition, free from debris, brush, severed tree limbs, junk, rubbish, physical hazards, rodent harborage and infestation.
- (b) All stored firewood shall be in neat, orderly stacks, unless shielded from the ground level view from all adjoining properties.

- (c) The storage and accumulation of any building material in a visible exterior area shall only be for a period that is reasonably necessary for the future use of such materials, which shall in no event be longer than 90 days. Building materials must be piled off the ground so as not to become a suitable environment for rats, rodents or similar vermin.
- (d) In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels, unless the trailer is enclosed.
- (e) Scaffolding may remain on a building only for a period that is reasonably necessary for the completion of the construction or maintenance activities for which it is erected, which shall in no event be longer than 90 days or the length of the related building permit, whichever is longer.
- (f) Conditions or activities that produce disagreeable or obnoxious odors or stenches or dense smoke, noxious fumes, gas, soot, or cinders in unreasonable qualities are prohibited.

Sec. 16-5. Enforcement and penalties.

- (a) Any person that violates this chapter shall be responsible for a municipal civil infraction subject to a fine not to exceed \$500.00. Each day that a violation continues shall be deemed to be a separate violation.
- (b) Before commencing enforcement under this chapter, the enforcement officer shall issue notice to the responsible party charged with the violation, setting forth the violation specifics. The notice shall state the name of the person that the city considers to be the responsible party, and shall specify that failure to remedy the violation within no fewer than 10 days of the issuance of the notice may result in the issuance of a municipal civil infraction citation. The notice shall also state that the recipient has the right to appeal the notice to the construction board of appeals.
- (c) If the responsible party fails to abate the blight within the required time frame, the city may take action to abate the blight and may charge the cost of such abatement to the responsible party. The city treasurer shall bill the cost, plus an administration fee of 25 percent, to the responsible party. Such bills shall become due within 30 days of issuance, and it shall be a violation of this chapter to fail to pay a bill when due. The city may levy a single-lot special assessment in accordance with this Code of Ordinances as a means of recovering the full cost of abatement.
- (d) Abating the nuisance is not in lieu of, or an alternative to, pursuing the civil infraction in district court. Both civil infraction and abatement of the nuisance may be pursued by the city.

Sec. 16-6. Appeal of notification of violation.

- (a) A person receiving a notification of violation under section 16-6 of this chapter may appeal to the City Manager or his/her designee by filing an appeal form with the city clerk no later than ten days after the issuance of the notice. The appeal must be submitted on a standard appeal application form available in on the city's website or in the office of the city clerk. The appeal application must include a thorough description of the reason for appealing and shall be accompanied by any fee that may be required by the city council from time to time.
- (b) The City Manager or his/her designee shall set a reasonable time for hearing of the appeal within 30 days from the date on which the application form is received. The construction board of appeals shall provide the appellant, by first class mail, one notice of the public hearing date, time, and location.
- (c) The City Manager or his/her designee shall hear and decide appeals, and review on appeal any order, requirement, decision or determination, made by the enforcement officer in applying the requirements of this chapter. Upon such appeal, the City Manager or his/her designee may reverse or affirm the enforcement officer's determination in whole or in part.

Sec. 16-7. Interpretation.

Nothing in this chapter shall be interpreted to prohibit conduct or conditions expressly permitted under the city's zoning ordinance

Section 3. Addition. A new Article VI, entitled "Freestanding Outdoor Furnaces," is added to Chapter 7 of the Allegan Code of Ordinances to incorporate regulations adopted in June 2007 and previously codified in Chapter 16, Article II of the Code of Ordinances. The new Chapter 7, Article VI shall read in its entirety as follows:

Article VI – Freestanding Outdoor Furnaces

Sec. 7-330. Purpose.

It is the purpose of this article to ban the construction and operation of outdoor furnaces within the limits of the City of Allegan for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants. The types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises. Moreover, the restricted airflow, low operating temperatures, lack of emission controls, and large fuel loads associated with these units frequently result in excessive smoke. Under some conditions smoke can cause both acute and chronic health problems to other residents if they are exposed to the smoke.

Sec. 7-331. Definition.

The term "freestanding outdoor furnace" shall mean any device, appliance, equipment, apparatus, or structure that:

- (a) Is designed, intended and/or used to provide hot water heat and/or hot water to any associated structure.
- (b) Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- (c) Is not located within the structure to be heated.

Sec. 7-332. Existing outdoor furnaces.

- (a) Any outdoor furnace existing as of June 25, 2007, which was registered with the city within thirty (30) days of that date may continue in operation except as provided in this section.
- (b) If an existing outdoor furnace is not operated for twelve (12) consecutive months, it may not be used again and must be dismantled or otherwise be removed from the property.
- (c) No new or replacement of existing outdoor furnace shall be installed or put into use.
- (d) This section shall not be deemed as specific authorization for the use of any preexisting freestanding outdoor furnace designed for structure heat and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private or legal action regarding damage or nuisance caused by the use of a freestanding outdoor furnace designed for structure heat.

Sec. 7-333. Installation and operation prohibited.

- (a) Except as provided in Section 7-332, it shall be unlawful to install or operate freestanding outdoor furnaces designed for structure heat and to cause or permit the installation or operation of freestanding outdoor furnaces within the city.
- (b) Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
- (c) This article shall not be a defense to any civil claims.

Sec. 7-334. Enforcement.

Before commencing prosecution under this article, the building official, or other such authorized person to enforce ordinances and codes on behalf of the city, shall give notice to the person charged with violating this article. Such notice shall be in writing, and shall be served upon said person or, at the option of the enforcement officer, by posting a copy of this notice on the land or attaching a copy of the notice to the building or structure. In addition, a copy of the notice shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address. The notice shall specify that failure to remedy the violation within 10 days of the date of personal service or 12 days from the date of mailing may result in the issuance of a municipal civil infraction citation.

Sec. 7-335. Violation, declaration of nuisance.

Any freestanding outdoor furnace designed for structure heat installed or operated in violation of this article is hereby declared to be nuisance per se.

Section 4. Publication and Effective Date. The city clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect 10 days after its adoption or upon publication of the notice of adoption, whichever occurs later.

YEAS: Perrigo, Tripp, Ingalsbee, McKenzie, Mayor Stotmeister

NAYS: None

ABSTAIN: None

ABSENT: Morgan, Manning

CERTIFICATION

This true and complete copy of Ordinance No. 468 was declared adopted at a Regular Meeting of the Allegan City Council held on May 29, 2018.

Danielle Bird, City Clerk

Introduced: May 14, 2018

Adopted: May 29, 2018

Published: May 24, 2018

Effective: June 8, 2018