

2006-Or-____

**AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS**

By Samuels

Amending Title 12, Chapter 249 of the Minneapolis Code of Ordinances relating to Housing: Vacant Building or Dwelling, Nuisance Condition.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 249.30 of the above-entitled ordinance be amended, to be effective on October 1, 2006, to read as follows:

249.30. "Nuisance condition" defined; waiver of waiting period. (a) A building within the city shall be deemed a nuisance condition if:

- (1) It is vacant and unoccupied for the purpose for which it was erected and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least six (6) months; or
 - (2) The building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, or the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days; or
 - (3) Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building; or
 - (4) Evidence, including but not limited to rehab assessments completed by ~~the MDCACPED~~, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.
- (b) When it is determined by the ~~d~~Director of ~~i~~Inspections ~~and/or~~ the city ~~f~~Fire ~~m~~Marshal that a building constitutes an immediate hazard to the public health and safety, and after approval by the city council, the sixty-day waiting period set out in this section may be waived and the other procedures, as set out in this chapter, may be implemented immediately.

- (c) Notwithstanding the foregoing provisions, accessory buildings such as garages, barns and other similar structures, not intended to be used for human habitation, shall be deemed to constitute a nuisance condition when such buildings are in violation of section 244.1560 of the housing maintenance code which regulates nondwelling structures or when such accessory buildings are structurally unsound in the opinion of the ~~Director of~~ Director of ~~Inspections.~~ Inspections.

Section 2. That Section 249.40 of the above-entitled ordinance be amended, to be effective on October 1, 2006, to read as follows:

249.40. Abatement of nuisance condition. ~~Upon completion of the procedures set forth in this chapter, and approval by the city council, b~~Buildings determined to be a nuisance condition may be rehabilitated or razed by order of the Director of Inspections.

- (1) Before any action is taken to abate a nuisance condition, except as provided in section 249.25 relating to securing vacant buildings, the ~~division~~ Director of ~~Inspections~~ shall examine the building to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition. Among the criteria to be considered ~~by the division of inspections, and the Minneapolis Community Development Agency (MCDA) and the planning department~~ are the following:
- a. The need for neighborhood housing;
 - b. The historic value of the building;
 - c. The impact on the neighborhood and the ability of the neighborhood to attract future residents;
 - d. The capacity of the neighborhood to use the property;
 - e. The zoning and comprehensive plan classifications for the property use;
 - f. The market potential for the property;
 - g. The estimated cost of rehabilitation;
 - h. The severity and the history of neglect;
 - i. The availability of funds for rehabilitation to the owner;
 - j. The structural condition of the building.
- ~~(2)~~ If the Director of Inspections determines that the building is a nuisance condition, the Director of Inspections shall order the building to be demolished, or rehabilitated. The Director may impose any and all conditions deemed appropriate to ensure compliance with the order.
- ~~(2)(3)~~ Before the execution of any order to demolish or rehabilitate a building under this chapter, tThe division of inspections shall give notice of hearing the Director's order to demolish or rehabilitate the building at the last known address to the owner and other persons shown to have an interest in the building deemed to

create a nuisance condition. Proper notice shall be sufficiently given when mailed by certified mail return receipt requested, postage prepaid, addressed to the owner to whom the building is registered with the division of inspections or, if not registered, to the owner or other persons shown to have an interest in the property as ascertained by the files and records of the register of deeds or registrar of titles in and for Hennepin County. Such notice shall also be given to such persons that the Director of inspections has actual knowledge of having an interest in the said property. In addition, such notice shall be served by three (3) weeks' published notice in any newspaper of general circulation in the City of Minneapolis as provided for in Minnesota Rules of Civil Procedure and by posting such notice at the street entrance to such building. The notice shall state: Such notice of hearing before an appropriate council committee shall contain the director's determination, recommendation and the date, time and place of the hearing. In addition, notice of the hearing shall be sent to all property owners within three hundred fifty (350) feet of the subject property and to the neighborhood organization in which the property is located. Notice to the owners, or other party with an interest in the property, shall inform the owner and party of (a) the right to appear individually or through a representative or to submit a written statement, (b) the right to examine witnesses at the hearings and offer such evidence as may bear on the decision to demolish or rehabilitate the building, and (c) that the hearing will be recorded. Neighborhood organization and owners of property within three hundred fifty (350) feet of the subject property shall be entitled to present joint or individual neighborhood impact statements to the hearing committee. The neighborhood impact statements shall specifically address the items contained in section 249.40(1)a., b., c. and d., and such other relevant material as may be offered.

- (a) That the Director has determined that the building is a nuisance condition as defined by Section 249.30 and that the building is to be demolished or rehabilitated. If the Director is ordering that the building be rehabilitated, the notice shall state all of the conditions that are to be imposed.
- (b) The specific reasons the building has been determined to constitute a nuisance condition.
- (c) That unless the notice is appealed within twenty-one (21) days of the date the notice was mailed, in the manner provided in section 249.45, the division of inspections will proceed to demolish the building or that the division of inspections will impose the conditions of rehabilitation on the property.
- (d) The notice shall describe how an appeal may be filed under section 249.45.
- (e) The notice shall state that the owner of the property will be responsible for the payment of all costs incurred by the City in razing or rehabilitating the building, as well as an administrative fee of fifteen (15) percent of the cost. The notice shall state that if the costs are unpaid, the costs and the administrative fee shall be levied and collected as a special assessment against the property as provided for under section 227.100

- ~~(3) At the hearing, the division of inspections shall present an oral summary of the background and reasons for its recommendation. A report, including any pertinent documents and photos shall be filed as part of the record. All parties having an interest in the property may review department documents, subject to restrictions in the Government Data Practices Act, prior to the hearing, and shall be permitted to present evidence in support of their position. Parties having an interest in the property shall have the right to question witnesses at the hearing. Neighborhood organizations and property owners within three hundred fifty (350) feet of the subject property shall be permitted to testify. Neighborhood impact statements, if offered, shall be made a part of the record.~~
- ~~(4) Any interested parties seeking to demonstrate the feasibility of rehabilitation, shall, at least 48 hours prior to the hearing, provide to the division a statement itemizing the cost to rehabilitate the building.~~
- (4) If no appeal is received within twenty-one (21) days of the notice being mailed, the department of inspections may proceed with the Director's determination to demolish the building by razing the building, or may proceed with the Director's determination to rehabilitate the building by imposing the conditions set forth in the notice.
- (5) When the owner of a property, that has received a Director's order to demolish or rehabilitate the property, intends to sell an interest in the property, the owner must disclose to the purchaser that a Director's order to demolish or rehabilitate the property has been previously issued.

Section 3. That Chapter 249 of the Minneapolis Code of Ordinances be amended, to be effective on October 1, 2006, by adding thereto a new Section 249.45 to read as follows:

249.45. Abatement of nuisance condition appeals. (a) There is hereby created a nuisance condition process review panel. The panel shall consist of the Director of Operations, Licenses and Environmental Services, the Fire Marshal, the Director of Housing Policy and Development, and the City Assessor or their designees. Three members of the panel shall constitute a quorum. The panel shall make decisions by a majority vote. The Director of Inspections' order, as set forth in the notice, shall be upheld if the panel is deadlocked.

- (b) The panel shall have authority to hear and decide all appeals from the Director of Inspections' order to demolish or rehabilitate a nuisance condition building. The panel shall uphold or overturn the Director's determination that the building is a nuisance condition as defined by section 249.30 and shall uphold or overturn the Director's determination that the building should be demolished or rehabilitated. If the Director of Inspections imposes conditions on an order to rehabilitate the building, the panel shall have the authority to uphold, modify or overturn those conditions.
- (c) Any person wishing to appeal a determination of the Director of Inspections ordering demolition or rehabilitation shall file a written notice of appeal with the department of inspections within twenty-one (21) days after receipt of the Director's order. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee of three hundred dollars (\$300.00).

- (d) The panel shall meet at the call of the chair to hear appeals. The panel shall notify the owner and any other person known to have an interest in the property in writing of the time and place of the hearing. In addition, notice of the hearing shall be sent to all property owners within three hundred fifty (350) feet of the subject property and to any neighborhood organization in which the property is located.
- (e) Notice to the owners, or other parties with an interest in the property, shall inform the owner and parties of (1) the right to appear individually or through a representative or to submit a written statement, (2) the right to examine witnesses at the hearings and offer such evidence as may bear on the decision to demolish or rehabilitate the building, and (3) that the hearing will be recorded. Neighborhood organizations and owners of property within three hundred fifty (350) feet of the subject property shall be entitled to present joint or individual neighborhood impact statements to the panel. The neighborhood impact statements shall specifically address the items contained in section 249.40 (1) a., b., c. and d., and such other relevant material as may be offered.
- (f) At the hearing, the panel shall hear all relevant evidence and argument. The panel may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The panel shall record the hearing and keep a record of documentary evidence submitted.
- (g) At the hearing, the division of inspections shall present an oral summary of the background and reasons for its recommendation. A report, including any pertinent documents and photos shall be filed as part of the record. All parties having an interest in the property may review department documents, subject to restrictions in the Government Data Practices Act, prior to the hearing, and shall be permitted to present evidence in support of their position. Parties having an interest in the property shall have the right to question witnesses at the hearing.
- (h) The panel shall render its decision in writing within thirty (30) days after the close of the hearing. The panel shall determine whether the building meets the definition of nuisance condition as set forth in section 249.30 and whether the Director of Inspections' order to demolish or rehabilitate the building should be upheld or overturned and shall specify the factual and legal basis for the determination. The panel shall make its determination based upon the preponderance of the evidence.
- (i) The panel shall mail a copy of its decision to the appellant.
- (j) The panel shall refer its decision to the city council, which shall have the final authority to determine whether the building is a nuisance condition as set forth in section 249.30 and whether the building should be rehabilitated or razed. The panel's findings shall include the date and time of the hearing before the public safety and regulatory services committee. The public safety and regulatory services committee may hear arguments from the appellants, but shall take no further evidence.

Section 4. That Section 249.50 of the above-entitled ordinance be amended, to be effective on October 1, 2006, to read as follows:

249.50. Alternatives to demolition. (a) ~~The committee and the city council~~ may consider as an alternate to demolition:

- (1) Ordering the owner of any nuisance condition to rehabilitate the building and specifying the time within which such rehabilitation shall occur.

If rehabilitation is the alternative required by the city council, the owner shall present a plan for rehabilitation to the ~~e~~Director of ~~i~~Inspections that shall contain a commitment of funds to accomplish the plan.

If the plan required herein is not received by the ~~e~~Director of ~~i~~Inspections within the time ordered by the council, the city shall proceed to demolish the building.

- (2) If the owner is, for any reason, unwilling or unable to immediately rehabilitate the building, the city may elect to rehabilitate and assess the cost thereof provided that the estimated cost may not exceed fifty (50) percent of the estimated after-rehabilitation market value of the property. Such costs shall be assessed against the property, in the manner provided for in section 249.60.

- (3) Notwithstanding the limitations of section 249.50(a)(2), and in order to make funds available for rehabilitation, the city may, to the extent neighborhood action plans of the neighborhood revitalization program allow, create a revolving fund for housing purposes to be used in the neighborhood for which the funds have been earmarked. The city may receive applications and consider, where appropriate, loans to owners for housing rehabilitation purposes.

- (b) ~~After the hearing, t~~The committee-city council shall recommend-order demolition or rehabilitation of the building. ~~Division of inspections staff shall prepare findings and an order based upon the evidence and record of the hearing. The committee-city council shall make the findings and such order as it deems appropriate based upon the evidence and record of the appeal hearing. The committee-city council may also impose any and all conditions it deems appropriate. These conditions may include the posting of a performance bond in an amount not to exceed the estimated cost of rehabilitation. The public safety and regulatory services committee may postpone its decision and order the owner to update the committee at a future date on the progress of rehabilitation. After council approval t~~The order shall be mailed to the last known address of the owner to whom the building is registered with the division of inspections or, if not registered, to persons shown to have an interest in the property as ascertained by the files and records of the registrar of deeds or registrar of titles in and for Hennepin County.

- (c) The owner of the subject property shall comply with the city council's decision and order. If the owner fails to abide by the order, the ~~e~~Director of ~~i~~Inspections

shall immediately notify the ~~committee~~ the city council ~~that~~ which may then order immediate demolition or otherwise amend its order.

Section 5. That Chapter 249 of the Minneapolis Code of Ordinances be amended, to be effective on October 1, 2006, by adding thereto a new Section 249.65 to read as follows:

249.65. Revolving fund for abatement of buildings in a nuisance condition. The department of inspections shall maintain a revolving fund to be known as the nuisance building abatement fund (hereinafter referred to as "the fund"). The fund may be drawn upon to perform abatement of buildings within the city that have been deemed to be a nuisance condition pursuant to Chapter 249. All costs and fees incurred abating buildings that are a nuisance condition, including appropriate interest, shall be recovered from the property owner pursuant to section 249.60 and 227.100. The fund shall be credited with the collection of the costs and fees recovered. Disbursements from the fund shall not be subject to the provisions and requirements of the procurement process of the city.

Section 6. That Section 249.80 (i) of the above-entitled ordinance be amended, to be effective on October 1, 2006, to read as follows:

249.80. Vacant building registration.

(i) Vacant building fees:

- (1) The owner of a vacant building shall pay an annual fee of ~~four hundred dollars (\$400.00)~~ two thousand dollars (\$2000.00). The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site.
- (2) The first annual fee shall be paid no later than five (5) days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.
- (3) Unpaid fees shall be levied and collected as a special assessment against the property as provided for under section 227.100, with interest at the rate of eight (8) percent per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees.