

ORDINANCE NO. OR31-23

AN ORDINANCE BY THE TROTWOOD CITY COUNCIL REPEALING CURRENT SECTION 1341.17 “DEMOLITION” OF THE TROTWOOD CODES OF ORDINANCES, AND ENACTING NEW SECTION 1341.17 “DEMOLITION” TO ALIGN THE NOTICE PROCESS WITH SERVICE METHODS UTILIZED BY COURTS OF RECORD, AND TO AUTHORIZE THE CERTIFICATION OF DEMOLITION-RELATED COSTS TO THE COUNTY AUDITOR PURSUANT TO OHIO REVISED CODE SECTION 715.261, AND DECLARING AN EMERGENCY.

WHEREAS, the Trotwood Codes of Ordinances (the “Codified Ordinances”) contain different notice procedures to notify property owners of code enforcement actions; and

WHEREAS, the City Law Director recommends revisions to Section 1341.17 of the Codified Ordinances to align the notice process with service methods utilized by courts of record and to authorize the certification of demolition-related costs to the county auditor pursuant to Ohio Revised Code Section 715.261; and

WHEREAS, City Council accepts the recommendation of the City Law Director and will amend Section 1341.17 accordingly; and

WHEREAS, for the immediate preservation of the public peace, health, safety, and welfare of the residents of the City of Trotwood; to allow the City to apply for and utilize land bank funding for code enforcement matters; and to allow the City to assess demolition-related costs against the property owner, it is necessary that this Ordinance take immediate effect.

NOW, THEREFORE, BE IT ORDAINED BY A VOTE OF FIVE (5) MEMBERS OF THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO:

SECTION I: Section 1341.17 “Demolition” of the Trotwood Codes of Ordinances is hereby repealed in its entirety.

SECTION II: New Section 1341.17 “Demolition” is hereby enacted as set forth in Exhibit “A” attached hereto and incorporated herein by reference, with additions in **bold** and underscored and deletions in ~~strikethrough~~.

SECTION III:

The Trotwood City Council declares that an emergency exists so to protect the public peace, health, safety, and welfare of the City's residents; to allow the City to apply for and utilize land bank funding for code enforcement matters; and to allow the City to assess demolition-related costs against the property owner pursuant to Ohio Revised Code Section 715.261, which therefore requires the expedited implementation of this legislation.

SECTION IV:

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including but not limited to Section 121.22 of the Ohio Revised Code.

SECTION V:

In accordance with Section 4-6 of the Charter of the City of Trotwood, Ohio, this Ordinance shall take effect immediately upon its adoption by Council

Passed this 2nd day of October, 2023.

ATTEST:

APPROVED:


KARA B. LANDIS
CLERK OF COUNCIL


MARY A. McDONALD
MAYOR


YVETTE F. PAGE
VICE-MAYOR

CITY OF TROTWOOD
3035 OLIVE ROAD
TROTWOOD, OHIO 45426

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify that the foregoing is a true and correct copy of Ordinance No. OR31-23 adopted by the Trotwood City Council at a regular scheduled meeting held on the 2nd day of October, 2023, and that I am duly authorized to execute this certificate.

Signed this _____ day of _____, _____.

KARA B. LANDIS
CLERK OF COUNCIL

1341.17 DEMOLITION.

- (a) General. The Code Official may order the owner(s) of any premises upon which is located any structure or part thereof, which in ~~his~~ **a duly authorized Code Official's** judgement is so old, dilapidated, or has become so out of repair so as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use such that it would be unreasonable to repair the same, to raze and remove such structure or part thereof; or if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the ~~owner's~~ **option of the owner(s)**; or, where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure or part thereof.
- (b) Unreasonable Repairs. Whenever the Code Official determines that the cost of such repairs would exceed one hundred percent (100%) of the current value of such structure, **based upon the county auditor's tax valuation of the property or as determined by a qualified real estate appraiser,** such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this section that such structure is a public nuisance which may be ordered razed without option on the part of the owner to repair. **If a property owner disagrees with a Code Official's determination that it would be unreasonable to repair the property, the owner may appeal the Code Official's determination pursuant to section (d) below.**
- (c) Order. The order, **which shall be in writing and posted by a Code Official in a conspicuous place on the property, shall include a description of the real estate sufficient for identification; shall specify a reasonable time in which the owner(s) shall comply with the corrective action required therewith; shall and specify the reason the order was issued and the repairs and corrective action required, if any; and shall notify the owner(s), all lienholders of record, and other interested parties of the right to appeal the Code Official's order within fifteen days of service of the order.** ~~It~~ **The order** shall be served on the owner(s) of record; ~~the owner(s) or his agent, where~~ **if** an agent is in charge of the building; and upon the holder of any ~~encumbrance of record~~ **legal or equitable interest** in the manner provided for service of a summons by a court of record **as determined by the City Attorney after title review.** If certified mail service of the order is returned ~~to the City as refused or unclaimed~~ **unserved,** the order shall be sent via regular mail **evidenced by a certificate of mailing from the U.S. Postal Service.** **As an alternative to certified mail service, the order may be served by a commercial carrier service utilizing any form of delivery that requires a signed receipt.** ~~If the~~ **an** owner or holder of an encumbrance of record cannot be found, the order ~~may~~ **shall** be served ~~by posting it on the main entrance of the building and/or by publishing it~~ **in accordance with Section 10-8 of the Trotwood City Charter,** ~~once each week for three successive weeks in a newspaper authorized to provide service by publication.~~
- (d) Right to Appeal. **Anyone affected by a demolition order issued pursuant to this section may appeal the order within fifteen days after the order was served pursuant to section 1341.16(A) of this Code.**

- (e) Failure to Comply. Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the total cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. Pursuant to Ohio Revised Code Section 715.261, "total cost" includes costs incurred for the use of employees, agents, materials, and City equipment; costs arising out of any contracts for labor, materials, or equipment utilized in the demolition and removal of the structure(s); and the costs of service of the legal notice(s) and order(s), including but not limited to the cost of publication of the notice in a newspaper of general circulation when newspaper publication is utilized.**
- (f) When a property owned by the Trotwood Community Improvement Corporation ("TCIC") requires demolition, the City shall either directly pay for the costs associated with the demolition and may certify the total costs of demolition to the county auditor for placement on the tax duplicate as a lien against the estate; or, in the event the TCIC pays the costs of demolition, as the TCIC is the designated development agency working behalf on the City, the City may take whatever action is necessary to certify the demolition costs incurred by the TCIC to the county auditor to serve as a lien against the estate.**