ORDINANCE NO. 03- -16

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 18 – BUILDINGS AND BUILDING REGULATIONS – TO ADD ARTICLE VII DANGEROUS BUILDINGS TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE CITY OF SOUTH LYON, OAKLAND COUNTY BY REGULATING THE MAINTENANCE AND SAFETY OF CERTAIN BUILDINGS AND STRUCTURES; TO DEFINE CLASSES OF BUILDINGS AND STRUCTURES AFFECTED BY THE ORDINANCE; TO ESTABLISH ADMINISTRATIVE REQUIREMENTS AND PRESCRIBE PROCEDURES FOR THE MAINTENANCE OR DEMOLITION OF CERTAIN BUILDINGS AND STRUCTURES; TO ESTABLISH REMEDIES, PROVIDE FOR ENFORCEMENT AND FIX PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment to Chapter 18, to add Article VII - Dangerous Buildings. Chapter 18 – Buildings and Building Regulations, of the City of South Lyon Code of Ordinances is hereby amended to add Article VII - Dangerous Buildings to read as follows:

ARTICLE VII. - DANGEROUS BUILDINGS

Section 18-401. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous building means any building or structure that has one or more of the following defects or is in one (1) or more of the following conditions:

(a) A door, aisle, passageway, stairway or other means of exit does not conform to the city fire code or building code.

(b) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the housing law of the state, Public Act 167 of 1917 (MCL 125.401 et seq.), or the city building code for a new building or structure, purpose or location.

(c) A part of the building or structure is likely to fail, become detached or dislodged, or collapse, and injure persons or damage property.

(d) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the housing law of the state, Public Act No. 167 of 1917 (MCL 125.401 et seq.), or the city building code.

(e) The building or structure, or part thereof, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

(f) The building or structure, or part thereof, is manifestly unsafe for the purpose for which it is used.

(g) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for causing a nuisance or committing an unlawful or immoral act.

(h) A building or structure used, or intended to be used, for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of the city or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.

(i) A building or structure is vacant, dilapidated and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(j) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under article 25 of the occupational code, Public Act No. 299 of 1930 (MCL 339.2501 et seq.), or is not publicly offered for sale by the owner. Such definition does not apply to either of the following:

1. A building or structure as to which the owner or agent does both of the following:

   i. Notifies the city police department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

(c) *Contents.* The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the hearing officer should not order the building or structure to be demolished, otherwise made safe or properly maintained.

(d) *Service.* The notice shall be in writing and shall be served upon the person to whom the notice is directed, either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the city's tax assessment records. If a notice is served upon a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten (10) days before the date of the hearing included in the notice. When service cannot be made by either of the above methods, the notice may be served by publishing the notice in a local newspaper of general circulation once a week for three (3) consecutive weeks and by posting a copy of the notice upon a conspicuous part of the structure.

Section. 18-405. - Emergency measures.

Where it reasonably appears that there is immediate danger to life or safety of any person unless immediate action is taken with respect to a dangerous building or structure, the building department shall report such facts to the city manager or his or her designee, and the city manager or his or her designee, shall order the building or structure to be vacated and cause the building or structure to be boarded up, fenced or otherwise made safe pending final action of the hearing officer and city council as applicable. The cost of such emergency measures shall be collected in the same manner as provided for in section 18-409.

Section 18-406. - Hearing Officer; Filing of notice with hearing officer.

(a) *Appointment.* The hearing officer shall be appointed by the mayor and be approved by the council and shall then serve at the mayor's pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, member of a community housing organization, or any person with similar qualifications. An employee of the city shall not be appointed as hearing officer.

(b) *Filing of notice.* The enforcing agency shall file a copy of the notice that a building or structure is a dangerous building with the hearing officer.

Section 18-407. - Hearing; testimony; decision; order; compliance.

(a) *Hearing, testimony and decision.* At a hearing prescribed by this article, the hearing officer shall take testimony and may receive evidence of the enforcing agency, the owner of the property and any interested party. Not more than five (5) days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe or properly maintained.

(b) *Compliance with hearing officer order.* If the hearing officer determines that the building or structure should be demolished, otherwise made safe or properly maintained, he shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order. Any repairs or maintenance ordered shall comply with applicable codes, regulations and ordinances. If the building or structure is a dangerous building under subsection (j) of the definition of dangerous building in section 18-401, the order may require the owner and/or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building or structure including, but not limited to, the maintenance of lawns, trees, and shrubs.

(c) *Unreasonable repairs.* If it is determined that a building or structure is dangerous ~~unsafe~~ and the hearing officer has determined that the cost of the repairs would exceed 100 percent of the true cash value of the building or structure as reflected on the city tax assessment rolls in effect prior to the building or structure becoming an dangerous building, such repairs shall be presumed unreasonable, and it shall be presumed for the purpose of this article that such building or structure is a public nuisance which may be ordered demolished without option on the part of the owner to repair. This section is not meant to apply to those situations where a building or structure is a dangerous building as a result of an event beyond the control of the owner, such as fire, windstorm, tornado, flood or other Act of God. If a building or structure has become a dangerous building because of an event beyond the control of the owner, the owner shall be given by the city manager, or his designee, reasonable time within which to make repairs and the building or structure shall not be ordered demolished without option on the part of the owner to repair. If the owner does not make the repairs within the designated time period, then the building or structure may be ordered demolished without option on the part of the owner to repair. The cost of demolishing the building or structure shall be a lien against the real property and shall be reported to the city assessor, who shall assess the cost against the property on which the building or structure is located.

Section 18-408. - Noncompliance; enforcement hearing.

(a) *Failure to appear; noncompliance with hearing officer order; request to enforce order.* If the owner, agent or lessee fails to appear, or neglects or refuses to comply with the hearing officer's order, the hearing officer shall file a report of the findings and a copy of the order with the city council not more than five (5) days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed section 18-404.

(b) *Enforcement hearing.* The city council shall fix a date not less than 30 days after the hearing prescribed in subsection 18-407(a) for a hearing on the findings and order of the hearing officer and shall give notice to: 1) the owner, agent, or owner/agent; and 2) all interested parties, in the manner prescribed in section 18-404 of the time and place of the hearing. At the hearing, the owner and/or agent and any interested party shall be given the opportunity to show cause why the order should not be enforced. The city council shall either approve, disapprove, or modify the order. If the city council approves or modifies the order, the city council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or owner/agent shall comply with the order within 60 days after the date of the hearing under this subsection. In the case of an order of demolition, if the city council determines that the building or structure has been substantially destroyed by fire, wind, flood, or other natural disaster, and the cost of repair of the building or structure will be greater

than the state equalized value of the building or structure, the owner, agent, or owner/agent shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists.

Section 18-409. - Implementation and enforcement of remedies.

(a) *Implementation of city council order.* In the event of the failure or refusal of the owner or agent or party in interest to comply with the decision of the city council, the city council may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure, or grounds adjoining the building or structure.

(b) *Reimbursement of costs.* The costs of the demolition, making the building or structure safe or maintaining the exterior of the building or structure, or grounds adjoining the building or structure, incurred by the city to bring the building or structure into conformance with this article including fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporting attendance fees, cost of consulting services, investigation, publication charges, attorney fees, court costs, and other administrative expenses, shall be reimbursed to the city by the owner or party in interest in whose name the property appears upon the city's last tax assessment records.

(c) *Notice of costs.* The owner or party in interest in whose name the property appears upon the city's last tax assessment records shall be notified by the city manager of the amount of the costs of the demolition, making the building or structure safe or maintaining the exterior of the building or structure, or grounds adjoining the building or structure, by first class mail at the address shown on the city tax assessment records.

(d) *Lien for unpaid costs.* If the owner or party in interest fails to pay the costs within 30 days after mailing by the city manager of the notice of the amount of the costs, the city shall have a lien for the costs incurred by the city to bring the property into conformance with this article. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Public Act No. 206 of 1892 (MCL 211.1 et seq.) or the applicable sections of the City of South Lyon Charter and Code.

(e) *Action against owner; lien on property.* In addition to other remedies under this article, the city may bring an action against the owner of the building or structure for the full cost of the demolition, making the building or structure safe or maintaining the exterior of the building or structure, or grounds adjoining the building or structure. The city shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

(f) *Enforcement of judgment.* A judgment in an action brought pursuant to subsection (e) of this section may be enforced against assets of the owner, other than the building or structure.

(g) *Lien for judgment amount.* The city shall have a lien for the amount of a judgment obtained pursuant to subsection (e) of this section against the owner's interest in all real property located in the state that is owned, in whole or in part, by the owner of the building or structure against which the judgment is obtained. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

Section 18-410. - Appeal to circuit court.

An owner or party in interest aggrieved by any final decision or a decision or order of the city council may appeal the decision to the county circuit court by filing a petition for an order of superintending control within 20 calendar days from the date of the decision or order.

Section 18-411. - Failure or refusal to comply with order~~Violation of ordinance;~~ penalties; public nuisance.

(a) *Misdemeanor~~unicipal Civil infraction.~~* Any person who fails or refuses to comply with an order approved or modified by the city council under section 18-408 within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars ($500.00) plus costs, which may include all direct or indirect expenses and costs incurred by the city in connection with the violation, or both.~~violates any provision of this article or fails or refuses to comply with a decision or order of the hearing officer or city council, as applicable, within the time prescribed shall be responsible for a municipal civil infraction and is subject to a civil fine of not more than $500, plus costs, which may include all direct or indirect expenses and costs incurred by the city in connection with the violation.~~

(b) *Additional remedies.* A violator of this ordinance shall also be subject to such additional actions, remedies, sanctions, and judicial orders as are authorized under Michigan law.

(c) *Separate and continuing violation.* Each day a violation of any provision of this article continues to exist constitutes a separate violation.

(d) *Public nuisance.* Any building or structure in violation of any provision of this article is hereby declared to be a public nuisance, and may be abated by order of any court of competent jurisdiction.

PART II. Severability. Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right

accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V. Effective Date; Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the South Lyon City Council this 8th day of Feb., 2016.

John Galeas, Jr., Mayor

Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the 8 day of Feb, 2016.

Lisa Deaton, City Clerk

Adopted: 2/8/16
Published: 2/18/16
Effective: 2/23/16