

# RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 50-12

Passed June 25, 20 12

5/22/12-smd  
(Ordinance, Rules & Claims)

Ordinance No. 50-12

An ordinance amending PART FIVE – GENERAL OFFENSES – to include CHAPTER 557 – UNSAFE BUILDINGS and amending PART 17 – HOUSING CODE – of the Codified Ordinances of the City of North Canton and specifically CHAPTER 1701.02 DEFINITIONS and CHAPTER 1701.03 COMPLIANCE AND ENFORCEMENT to the extent such chapters regulate unsafe buildings.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, STATE OF OHIO:

Section 1. That PART 5 – GENERAL OFFENSES of the Codified Ordinances of the City of North Canton, be, and the same is hereby amended to read as follows:

**“Chapter 557. UNSAFE BUILDINGS**

**557.01 BUILDING OR STRUCTURE CONSTITUTING PUBLIC NUISANCES.**

The phrase “public nuisance” as used in this Chapter shall mean a residential or commercial building or other structure that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

**557.02 INSPECTION; WRITTEN REPORT**

Upon receipt of information that a building or other structure constitutes a public nuisance, the Superintendent of Permits and Inspections, shall cause to be made an inspection thereof. If after said inspection it is found that said building or structure constitutes a public nuisance, he or she shall cause to be filed a detailed written report of the condition in the office of the Mayor which shall be a matter of public record and he or she shall cause a written notice thereof to be served as hereinafter provided.

**557.03 NOTICE ORDERING ABATEMENT; CONTENT OF NOTICE; SERVICE OF NOTICE**

(A) Whenever the Superintendent of Permits and Inspections finds any building or structure or portion thereof to be a public nuisance, the Superintendent of Permits and Inspections shall give written notice to the owner or owners of record or holders of legal or equitable liens on the premises. The notice shall be written and specifically state the defects that cause the building to be a public nuisance and shall require the owner within a stated time to either complete the specified repairs or improvements or to demolish and remove the building or structure or portion thereof, leaving the premises in a clean, safe and sanitary condition being subject to the approval of the Superintendent of Permits and Inspections.

(B) Proper service of the notice set forth in 557.03(A) shall be made by personal service, residence service or by certified mail; provided, however, that such notice shall be deemed to be properly served if a copy thereof is sent by certified mail to the owner’s last known address. If a party cannot be located, nor his address ascertained, this notice shall be deemed to be properly served if a copy thereof is placed in a conspicuous place in or about the building or structure affected by such notice and further, a copy of this notice shall be published in a newspaper of general circulation in this county for a period of three consecutive days. If such notice is by certified mail, the time period within which the owner is required to comply with the notice of the Superintendent of Permits and Inspections shall begin as of the date he receives such notice.

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(C) No action to demolish any structure or building shall be commenced sooner than thirty (30) days after the service of the notice described in Section (B) or thirty (30) days of the last date of publication of the notice.

(D) Within thirty (30) days of the service of the notice or last date of publication, the owners or holders of any legal or equitable liens of record may enter an agreement with the City to repair or demolish the structure or building provided that all agreements to repair or demolish shall be full performed within sixty (60) days or the agreement shall be void and the City may proceed as described below.

**557.04 FAILURE TO COMPLY WITH NOTICE**

If the persons served with a notice to repair or demolish and remove such building, structure or portion thereof which has been determined to be a public nuisance should fail to do so within the time stated in said notice, such party shall be subject to the penal provisions of this Chapter and the Superintendent of Permits and Inspections shall request the Director of Law to file an appropriate action in a court of competent jurisdiction wherein the Director of Law shall seek an Order from said court declaring a public nuisance and permitting the City to remedy the public nuisance through demolition or other appropriate means. The building or structure owner shall be liable for all costs of repair or demolition as well as all administrative costs, court costs and attorney fees incurred by the City in enforcing this Chapter. If the City is not reimbursed for such costs, fees and expenses within thirty days after written notice to the building or structure owner the amount thereof shall be certified to the County Treasurer and levied as a special assessment against the property on which the building or structure is located and shall be collected in such a manner provided for special assessments. Such certification shall not, however, preclude any other methods of recovery of such costs, fees and expenses available under law.

**557.99 PENALTY**

Whoever violates any provision of this Chapter or any rule or regulation promulgated thereunder or fails to comply therewith or with any written notice or written order issued thereunder, is guilty of a misdemeanor of the first degree for each offense. Each day such violation occurs or continues shall constitute a separate offense."

Section 2. That PART 17 -- HOUSING CODE of the Codified Ordinances of the City of North Canton, be, and the same is hereby amended to read as follows:

**"Chapter 1701.02. DEFINITIONS**

A. "Accessory building" means a structure, the use of which is incidental or accessory to that of the main building and which is attached thereto or located on the same premises.

B. "Approved" means approved by the Superintendent of Permits and Inspection pursuant to this Housing Code, or approved by any other authority designated by law to give approval to the matter in question.

C. "Communal kitchen" means a kitchen within a dwelling structure used by the occupants of more than one dwelling unit or shared or used by a person other than the members of one family.

D. "Double house" means a detached dwelling arranged, intended or designed to be occupied by only two families living side by side with a partywall between.

E. "Dwelling" means a building intended or designed to be occupied by not more than two families living separately and independently of each other.

F. "Dwelling structure" means a building or structure used or designed or intended to be used, all or in part, for residential purposes.

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G. "Dwelling unit" means a group of rooms arranged, maintained or designed to be occupied by a single family and shall consist of: a complete bathroom with toilet, lavatory and tub or shower facilities; complete kitchen or kitchenette with approved cooking; refrigeration and sink facilities; and approved living and sleeping facilities; all of which facilities are in contiguous rooms and are used exclusively by such family or any authorized persons occupying such dwelling unit with the family. The words "dwelling unit," "apartment," "suite" shall be considered synonymous.

H. "Family" means one or more persons related by blood, marriage or adoption who live together in one dwelling unit and maintain a common household; or not more than three persons not related by blood, marriage or adoption who live together in one dwelling unit and maintain a common household.

I. "Habitable Room" means a room or enclosed floor space used or intended to be used for living, sleeping or eating purposes, excluding bathrooms, toilet rooms, laundries, pantries, dressing rooms, storage spaces, foyers, hallways, utility rooms, heater rooms, boiler rooms, basement recreation rooms and areas used for kitchen purposes. Wherever living, sleeping or eating space is included in a room or area also used for kitchen purposes, the Superintendent of Permits and Inspection shall determine the portion of the floor area used for kitchen purposes and such portion, so determined, shall not constitute habitable floor area in determining the habitable floor area of a dwelling unit.

J. "Hotel" means a building originally designed for hotel purposes and meeting all requirements of State and City laws, rules and regulations in which all or part thereof is occupied, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to pay for transient guests and in which five or more rooms are used for the accommodation of such guests. For the purpose of this Housing Code the word "hotel" includes motels and motor courts meeting these requirements.

K. "Housing Code" means Chapter 1701 of the Codified Ordinances.

L. "Multiple dwelling" means a building containing three or more dwelling units, or two or more dwelling units above the first or ground floor. For the purpose of applying this definition, any building which is being operated as a rooming house pursuant to a City license shall not be classified as a multiple dwelling. The words "multiple dwelling," "tenement house" and "apartment house" are synonymous.

M. "Occupant" means a person over a year of age who is living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or room.

N. "Operator" means a person who has charge, care or control of a dwelling structure.

O. "Owner" means the owner of the owners of a fee interest or lesser estate in the premises, including but not limited to the holder of title thereto subject to contract or purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or lessees of the whole thereof, or any other person, firm, corporation or fiduciary or their agents directly in control of the premises. The person who signs the application for a certificate of occupancy for any premises shall be deemed prima facie to be an owner of such premises as defined herein.

P. "Premises" means a lot, parcel or plot of land including the buildings or structures thereon.

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Q. "Rooming house" means any dwelling structure in which one or more rooms are occupied by five or more roomers or lodgers or which three or more rooms are kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for pay. "Roomer" means any person who is not a member of the family nor related by blood, marriage or legal adoption to the operator of a rooming house, to whom space is provided for sleeping or boarding purposes for pay.

R. "Superintendent of Permits and Inspection" shall be construed as though followed by the words "or his authorized agent or representative."

S. "Supply" or "supplied" means paid for, furnished or provided by, or under the control of the owner or operator.

T.) "Two-family dwelling" means a detached dwelling arranged, intended or designed to be occupied by only two families, one of which has its principal living rooms on the first floor, the other of which has its principal living rooms on the second floor."

Section 3. That PART 17 – HOUSING CODE of the Codified Ordinances of the City of North Canton, be, and the same is hereby amended to read as follows:

## "Chapter 1701.03. COMPLIANCE AND ENFORCEMENT

A. Responsibility for Compliance. The owner as defined herein shall be responsible for compliance with all of the provisions of this Housing Code except where the responsibility therefor is specifically placed elsewhere.

B. Inspection. The Superintendent of Permits and Inspection and other City department heads and their representatives are hereby authorized to make or cause to be made inspections of all structures or premises used for dwelling purposes and all secondary or appurtenant structures to determine whether such structures or premises conform to the provisions of this Housing Code.

C. Right of Entry. Upon presentation of proper credentials the Superintendent of Permits and Inspection and other City department heads and their representatives may, with the consent of the occupant, operator or owner, enter at reasonable times, or at such other times as may be necessary without such consent in an emergency, any dwelling, building, structure or premises in the City to perform any duty imposed on him by this Housing Code. When consent of the occupant, operator or owner is not given to enter and an emergency situation does not exist, the Superintendent of Permits and Inspection and other City department heads and their representatives may, when probable cause for an inspection of any dwelling, building, structure or premises exists, seek a search warrant from an impartial magistrate to effectuate entrance and inspection.

### D.) Notice of Violation.

1. Whenever the Superintendent of Permits and Inspection and other City department heads and their representatives find any dwelling, structure or premises, or any part thereof, to be in violation of the provisions of this Housing Code, the Superintendent of Permits and Inspection with approval Director of Administration shall give or cause to be given or mailed by certified mail to the operator, the owners of record of such property, and to the holders of all legal or equitable liens of record upon the real property on which such building is located, a written notice stating the violations therein. Such notice shall order the owner or operator, within a stated reasonable time, which time shall not be less than thirty days, to repair or improve the structure or premises concerned and shall advise such owner or operator of the City's intention to repair or improve the structure or premises in the event of his noncompliance. Such delivery or mailing shall be deemed legal service of notice.

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2. If the person to whom a notice of violation is addressed cannot be found within Stark County after reasonable and diligent search, then notice may be sent by registered mail to the last known address of such person, and a copy of such notice shall be posted in a conspicuous place on the structure or premises to which it relates. Such mailing and posting shall be deemed legal service of notice.

E. Cases of Emergency. Whenever, in the opinion of the Superintendent of Permits and Inspection and the Director of Administration, the condition of a structure or premises or part thereof, constitutes an immediate hazard to human life or health, he shall declare a case of emergency and request the Law Director to cause immediate vacation of the structure or premises or part thereof.

F. Placards. Whenever the Superintendent of Permits and Inspection orders a structure or premises or part thereof to be vacated, he shall cause to be posted at each entrance to such structure or premises or part thereof, a placard ordering such vacation. No person shall deface or remove such placard without written permission of the Superintendent of Permits and Inspection. No person shall enter or use any structure or premises so placarded except as authorized by the Superintendent of Permits and Inspection.

G. Zoning and Building Standards Board of Appeals. The City Zoning and Building Standards Board of Appeals, as established by Charter, Section 3.07(3), shall be the Board of Appeals for this Housing Code.

H. Rules and Regulation; Existing Codes. The Zoning and Building Standards Board of Appeals shall have the power to recommend adoption of such rules and regulations as it may deem necessary to carry into effect the provisions of this Housing Code and to provide for its proper interpretation. Such rules and regulations must be formally adopted by Council and shall not conflict with or waive any provisions of this Housing Code or of any other codes or ordinances of the City.

Such rules and regulations, upon adoption by Council, shall be on file with the Superintendent of Permits and Inspection for public examination. Such rules regulations shall have the same force and effect as all other provisions of this Housing Code and shall continue in effect until amended or revoked by Council.

The Building Code, and all other codes or ordinances of the City prescribing standards for the construction, operation or maintenance of buildings or property, including all amendments thereto, are hereby specifically incorporated into this Housing Code as if their provisions were rewritten and the provisions or standards of such codes or ordinances are applicable to this Housing Code.

I. Other Legal Action Authorized. The imposition of any penalty shall not preclude the Law Director from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to require compliance with the provisions of this Housing Code or other applicable laws, ordinances or the orders or determinations of the Superintendent of Permits and Inspection, the Mayor or the Zoning and Building Standards Board of Appeals."

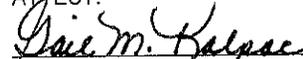
Section 4. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

North Canton, OH  
Passed: 6/25/12

  
MAYOR

SIGNED: 6/25, 2012

ATTEST:

  
CLERK OF COUNCIL