

# ORDINANCE 14.01A

## PROPERTY AND BUILDING STANDARDS

### An Ordinance Repealing Ordinance Number 14.01, And Adopting Ordinance Number 14.01A

**BE IT ORDANED** by the City Council of the City of Rothsay as follows:

#### **Section 1:**

- Subd. 1 Purpose
- Subd. 2 Applicability
- Subd. 3 Duties and Power of the Official
- Subd. 4 Definitions
- Subd. 5 Maintenance of Exterior Structures
- Subd. 6 Unfit and Hazardous Structures
- Subd. 7 Securing Vacant Buildings
- Subd. 8 Notices and Orders
- Subd. 9 Penalty for Violations

**Subd. 1 Purpose.** It is hereby determined that property that is not properly maintained in a clean, safe, secure and sanitary condition tends to result in blighted and deteriorated neighborhoods and is contrary to the public peace, health, safety and general welfare of the community. The provisions of this Ordinance shall govern the minimum conditions and responsibilities of the property owner for maintenance of structures and exterior property.

#### **Subd. 2 Applicability.**

- A. General. The provisions of this Ordinance shall apply to all property within the City limits of Rothsay and constitute minimum requirements and standards for premises and structures; the responsibility of owners, and for administrations, enforcement and penalties.
- B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. An owner or manager shall not permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with requirements of this Ordinance.
- C. Existing Remedies. The provision of this Ordinance shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure, which is dangerous, unsafe or unsanitary.
- D. Workmanship. Repairs, maintenance work, alteration or installations which are caused directly or indirectly by the enforcement of this Ordinance shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

- E. Severability. If a section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Subd. 3        Duties and Powers of the City Council.**

- A. Appointment. The City Council shall be appointed authority to administer this chapter.
- B. Designees. The City Council shall have the authority to appoint designees to carry out the inspections and to enforce the provisions of this chapter. Whenever designees is stated in this chapter, it includes those assigned and designated by the City Council.
- C. Liability. The designees, officer or employee charged with the enforcement of this Ordinance, while acting for the jurisdiction, shall not hereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Ordinance shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The designee or any subordinate shall not be liable for costs in action, suit or proceedings that is instituted in pursuance of the provisions of this Ordinance; and the Ordinance Official, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions by reason of any act or omission in the performance of official duties in connection therewith.
- D. Rule-Making Authority. The designee shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this Ordinance; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this Ordinance, or of violating accepted engineering methods involving public safety.
- E. Inspections. The designee shall make all of the required inspections, or shall accept the reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The designee is authorized to engage such expert opinion as deemed necessary to report upon unusual issues that arise, subject to the approval of the appointing authority.
- F. Right of Entry. With permission, the designee is authorized to enter the structure or premises at reasonable times to inspect. If entry is refused or not obtained, the designee is authorized to pursue recourse as provided by law.
- G. Identification. The designee shall carry proper identification when inspecting structures or premises in the performance of duties under this Ordinance.
- H. Department Records. The designee shall keep official records of all business and activities of the department specified in the provisions of this Ordinance. Such records shall be retained in the official records pursuant to the document retention policy of the City of Rothsay.
- I. Coordination of Inspections. Whenever the enforcement for this Ordinance or another Ordinance, the responsibility of more than one designee of the jurisdiction is involved, it shall be the duty of the designees involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by

numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law or Ordinance not within the inspector's authority to enforce, the inspector shall report the findings to the designee having jurisdiction.

- J. Notice and Orders. The designee shall issue all necessary notices or orders to insure compliance with this Ordinance.
- K. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this Ordinance, the designee shall have the authority to grant modifications for individual cases, provided the designee shall first find that special individual reason makes the strict letter of this Ordinance impractical and the modifications is in compliance with the intent and purpose of this Ordinance and that such modifications does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the City files.

#### **Subd. 4 Definitions.**

- A. Terms Defined on Other Ordinances. Where terms are not defined in this Ordinance and are defined elsewhere, such terms shall have the meaning ascribed to them as in those Ordinances or codes.
- B. General Definitions.
  - 1. **"Approved"** Approved by the City Council designee.
  - 2. **"Basement"** That portion of a building which is partly or completely below grade.
  - 3. **"Designee"** The official who is charged with the administration and enforcement of this Ordinance, or any duly authorized representative.
  - 4. **"Dwelling Unit"** A single unit providing complete, independent living facilities for one or more person, including permanent provisions for living, sleeping, eating, cooking and sanitation.
  - 5. **"Exterior Property"** The open space on the premises and on adjoining property under the control of owner or manager of such premises.
  - 6. **"Occupancy"** The purpose for which a building or portion thereof is utilized or occupied.
  - 7. **"Occupant"** Any individual living or sleeping in a building, or having possession of a space within a building.
  - 8. **"Openable Area"** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.
  - 9. **"Owner"** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
  - 10. **"Person"** An individual, corporation, partnership or any other group acting as a unit.
  - 11. **"Premises"** A lot, plot or parcel of land, easement or public way, including any structures thereon.
  - 12. **"Structure"** That which is built or constructed or a portion thereof.
  - 13. **"Ventilation"** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

14. **“Workmanlike”** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**Subd. 5 Maintenance of Exterior Structures.**

- A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- B. Protective Treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Paint, which is peeling, or blistering to an extent of more than twenty-five percent (25%) of the area, shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors and skylights shall be maintained weather resistant and watertight.
- C. Street Numbers. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public way.
- D. Structural Members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- E. Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents.
- F. Exterior Walls. All exterior walls shall be free from holes, breaks, loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- G. Roofs and Drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. All gutters and downspouts shall be present and functional on every structure such that full and complete drainage away from the building occurs.
- H. Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- I. Overhang Extensions. All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. All soffit and fascia areas shall be reasonably weathertight and rodent-proof; and shall be kept in a workmanlike state of maintenance and repair.
- J. Stair and Walking Surfaces. Every stair, ramp, balcony, porch, deck or other walking surface shall be kept in a proper state of repair and maintained free from hazardous conditions.
- K. Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- L. Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or

wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

- M. Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- N. Windows, Skylight and Door Frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
- O. Insect Screens. During the appropriate season, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are process, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens.
- P. Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.
- Q. Basements Hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

#### **Subd. 6 Unfit and Hazardous Structures**

- A. General. The structure will be considered unfit if all or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended.
- B. Habitable Structures. The entire structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. The following conditions must be met to occupy a structure as a livable dwelling.
  - 1. Water and Sewer must be in operational condition to the dwelling properly and inspected by the appropriate authority or designee.
  - 2. The designee shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The designee is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.
  - 3. A Certificate of Occupancy must be issued to any owner intending to use a structure as living quarters by the City of Rothsay.

All of these requirements along with all or any portion of this Ordinance must be in compliance to be considered a safe structure to be lived in. If a structure is found to be unfit, it will be considered a "Hazardous Building".

- C. Hazardous Building. "Hazardous building" shall be defined as any home, shop, barn, building, structure or other improvement to real estate that would constitute a fire hazard or hazard to public safety or health by which reason of its:
  - 1. Defective Construction,
  - 2. Deterioration,
  - 3. Dilapidation,
  - 4. Partial or complete destruction,
  - 5. Condition constituting a fire menace,
  - 6. Violation of fire regulations,

7. Violation of State Building Code,
  8. Unsafe or unsanitary condition,
  9. Unlawful or improper use,
  10. Instability rendering it likely to fall,
  11. Emission of obnoxious fumes and odors, constitutes a present danger and peril to life, limb or property,
  12. Any other structure that would be considered hazardous under M.S.A. Ch. 463
- D. Vacant Structure. Any vacant dwelling, garage, or other outbuilding that is not kept securely locked, or its windows are not glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

**Subd. 7        Securing Vacant Buildings.**

- A. General. If any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the designee may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within fifteen (15) day after the order is served, the designee shall cause the building to be boarded up or otherwise properly secured.
- B. Emergency. When it is determined by the City Council, designee, Law Enforcement officials, or the Fire Chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the City Council and its designees may waive all requirements herein and immediately board or otherwise secure the building, provided that:
1. The conditions showing the existence of an emergency are documented in writing by the City Council, designees, Law Enforcement official, or the Fire Chief or their designees.
  2. Notice shall be mailed immediately by the department invoking this section to the address of the owner and taxpayer, and if recorded on the assessors rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reason therefor.
- C. Securing a Building. After a vacant or unoccupied building has been boarded up or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and re-occupied, the designee shall re-secure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee of \$150.00 and all other costs incurred by the City for boarding or otherwise securing a building under this section, including, but not limited to, the actual costs for boarding, inspecting, posting and monitoring the building, shall be billed to the property owner, or charged as a special assessment against the real estate upon which the structure is located and shall be a lien upon real estate.

**Subd. 8 Notices and Orders.**

- A. Notice to Person(s) Responsible. Whenever the City Council or designee determines that there has been a violation of this Ordinance or has grounds to believe that a violation has occurred, notice shall be given to the person(s) responsible in the manner prescribed.
- B. Form. Such notice shall be in accordance with all of the following:
  - 1. Be in writing;
  - 2. Include a description of the real estate sufficient for identification;
  - 3. Include a statement of the violation or violations and why the notice is being sent;
  - 4. Include a correction order allowing a reasonable time to make the repairs and improvement required to bring the dwelling unit or structure into compliance with the provisions of this Ordinance.
- C. Method of Service. Such notice shall be deemed to be properly served if a copy thereof is
  - 1. Delivered personally;
  - 2. Sent by Certified or First-Class mail addressed to the last known address of the person responsible; or
  - 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- D. Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the City Council or designee and shall furnish to the City Council or designee a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and full accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**Subd. 9 Penalty for Violations**

- A. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Ordinance.
- B. Notice of Violation. The City Council or designee shall serve notice of violation of order in accordance with this Ordinance.
- C. Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with this Ordinance shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the City Council or designee shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require provisions of this Ordinance or of the order or direction made pursuant thereto. Any action taken by the City of Rothsay shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- D. Violation of Penalties. Any person who shall violate a provision of this Ordinance, or fail to comply therewith, or with any of the requirements thereof, may be prosecuted with the limits provided by State or City Ordinance. Violation shall be deemed a misdemeanor and shall be punishable by a

fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Alternatively, the City Council or designee may proceed with administrative citations and civil penalties.

- E. Abatement of Violations. The imposition of the penalties herein prescribed shall not preclude the legal officer of the City of Rothsay from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.
- F. Application for Appeal. Any person directly affected by a decision of the City Council or designee or a notice or order issued under this Ordinance shall have the right to appeal to the City Council or designee, provided that a written Application for Appeal is filed within twenty (20) days after the day the decision, notice or order was served. An Application for Appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or the requirements of this Ordinance are adequately satisfied by other means.

**Section 2:** This Ordinance shall take effect upon passage and publication in accordance with the City of Rothsay. It shall supersede any previous Ordinances and Regulations pertaining to property and building standards mentioned in this Ordinance.

PASSED unanimously by the City Council of the City of Rothsay this 5<sup>th</sup> Day of November, 2018

SIGNED:

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Joseph Tillman, Acting Mayor

ATTESTED BY:

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Lisa Zimmerman, City Clerk/Treasurer

Date of Publication: \_\_\_\_\_