

TITLE 4
CHAPTER 5

ABATEMENT OF DANGEROUS BUILDINGS

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4-5-1: PURPOSE: It is the purpose of this code to provide an equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by law, whereby buildings or structures which from any cause endanger the life, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

4-5-2: DEFINITIONS:

DANGEROUS BUILDINGS

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Any building or structure, exclusive of the foundation, that shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its nonsupporting members, exterior walls or coverings.
2. Any building or structure that has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or a harbor for vagrants.
3. Any building or structure that has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, as specified in the Building Code or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.
4. Any building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

5. Any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, as determined by the Fire Marshal or Electrical Inspector to be a fire hazard.

6. Any building or structure which contains any combination of unsafe conditions or items, including open and abandoned buildings, which could endanger other property or human life.

7. Any portion of a building structure that remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

PERMIT

The term "permit" shall mean building permit, electrical permit, etc., as the context may require. The term shall also include a combination permit, when appropriate.

PERSON IN CHARGE OF PROPERTY

An agent, occupant, lessee, tenant, contract purchaser, owner, or other person having possession or control of property or the supervision of any construction project.

4-5-3: ENFORCEMENT:

A. General:

1. Administration. The Building Official is hereby authorized to enforce the provisions of this code.
2. Inspections. The Health Officer, the Electrical Inspector, the Fire Marshal, and the Building Official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.
3. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
4. When the Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this code.

"Authorized Representative" shall include the officers named in Section 4-5-3-A (2) and their authorized inspection personnel.

- B. Abatement of Dangerous Buildings: All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this code.
- C. Violations: It shall be unlawful for any person, firm or corporation to enlarge, alter, improve, convert, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this code.
 - 1. Any building declared a dangerous building under this ordinance either shall be repaired in accordance with the current building code or shall be demolished at the option of the building owner.
 - 2. If the building or structure is in such condition as to make it immediately dangerous to life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.
 - 3. All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with an in the manner provided by this code and Sections 305 and 306 of the Building Code.
- D. Extension of Time to Perform Work: Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition's, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal his notice and order.

4-5-4: NOTICES AND ORDERS OF BUILDING OFFICIAL:

- A. Commencement of Proceedings. Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation or demolition of the building.
- B. Notice and Order. The Building Official shall issue a notice and order directed to the person in charge of property. The notice and order shall contain:
 - 1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
 - 2. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 4-5-2 of this Code.
 - 3. A statement of the action required to be taken as determined by the Building Official.
 - a. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.
 - b. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Building Official to be reasonable.
 - c. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall

determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed. Council may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 5. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Council, provided the appeal is made in writing as provided in this code and filed with the Building Official within 30 days from the date of service of such notice and order. Failure to appeal or take action to remedy the nuisance shall be cause to take the matter before the Council.
- C. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the owner or person in charge of property, and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section.
- D. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address as it appears on the last equalized assessment roll of the county or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- E. Compliance. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by him under Subsection 4-5-4-B, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and approved by the Building Official. Any person violating this subsection shall be guilty of a misdemeanor.

4-5-5 APPEAL:

- A. Form of Appeal. Any person entitled to service under Section 4-5-4-C may appeal from any notice and order or any action of the Building Official under this code by filing at the office of the Building Official a written appeal containing:
1. A list of names of all appellants participating in the appeal.
 2. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 3. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

4. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
5. The signatures of all parties named as appellants and their official mailing addresses.
6. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the Building Official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 4-5-5-A, such appeal shall be filed within 10 days from the date of the service of the notice and order of the Building Official.

- B. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it at the next regular meeting of the Council.
- C. Scheduling, Notice and Hearing of Appeal. A hearing for appeal from the Building Official's notice shall be conducted as provided in Section 4-5-7.
- D. Staying of Order Under Appeal. Except for vacation orders made pursuant to Section 4-5-5, enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal which is properly filed.

4-5-6 REVIEW BY COUNCIL:

- A. If compliance is not had with the order within the time specified therein, or if an appeal has been properly and timely filed, the Building Official shall report the matter to the Council. The Council shall, within a reasonable time, fix a time and place for a public hearing.
- B. Mailed Notice. The City Recorder shall notify the person in charge of property and any occupants of the building by certified or registered mail. The notice shall state:
 - a. That a hearing will be held concerning the nuisance character of the property.
 - b. A description of the property and alleged nuisances.
 - c. The time and place of the hearing.

A copy of this notice shall be posted on the building.

- C. Published and Posted Notices. At least ten (10) days prior to the hearing date, the City shall publish a notice of the hearing in a newspaper of general circulation within the City or post notices in at least three public places in the City.
- D. Hearing.
 1. At the hearing, the owner or responsible parties shall have the right to be heard.
 2. If the Council determines that the building is dangerous, or that a nuisance exists the Council may by resolution:
 - a. Order the building to be demolished; or
 - b. Order the building to be made safe and prescribe what must be done to make it safe.

In the resolution, the Council may set a time, not less than 10 days, within which the order must be obeyed.

- E. Council Orders; Notice. Notice of the Council's determination and orders by the Council shall be sent by certified or registered mail to the owner of the building. If the Council determines that the building is a public nuisance, as defined in Section 4-5-2, the notice shall state that if the building is not repaired or condition abated within the time specified by the order, the building shall be demolished or condition abated at the expense of the owner of the property on which it is located.

4-5-7 ABATEMENT BY THE CITY: If the Council orders are not complied with, the City Manager shall cause the demolition or work to be done and direct that it be undertaken by City personnel and equipment or that bids be obtained according to applicable local and state contracting laws and regulations.

4-5-8 ASSESSMENT:

- A. The City Recorder shall forward to the owner, or person in charge of property by registered or certified mail, a notice stating:
1. The total cost of abatement, including the administrative costs.
 2. That the costs as indicated will be assessed to and become a lien against the property unless paid within 10 days from the date of the notice.
 3. That if the owner objects to the costs of the abatement as indicated, a written notice of objection may be filed with the City Recorder not more than 10 days from the date of the notice.
- B. If the costs of the abatement are not paid within 10 days from the date of the notice of costs or, if an objection was filed, within 10 days from the Council determination, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution and shall be entered in the docket of City liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- C. The lien shall bear interest at a rate set by the Council at the hearing specified in Section 4-5-7-D. The interest shall begin to run from the date of entry of the lien in the lien docket.
- D. Collection of the lien shall be in accordance with ORS 223.510 to 223.595.

4-5-9 PENALTIES: In lieu of, or in addition to, other remedies prescribed by this code, a public nuisance may be abated as provided by Section 6-1-8-5 and penalties imposed as provided by Section 6-1-10-6 of the Florence City Code.