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ARTICLE II. DANGEROUS STRUCTURES

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Sec. 17-26. Defined.

For purposes of this article, a dangerous building or structure is any building or structure which has any of the following defects or conditions:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the requirements of the fire prevention code of the city.
- (2) Whenever any portion has been damaged by wind, floods or by any other cause to such degree that its structural strength or stability is significantly weakened or is less than the minimum required by the city building code for a new building or structure, similar in purpose and location.
- (3) Whenever a building or structure or any portion or appurtenance is likely to fall or become detached or dislodged or to collapse for any reason.
- (4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to wind or snow loads than is required in the case of new construction by the city building code.
- (5) Whenever for any reason whatsoever, a building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- (6) Whenever a building or structure has been so damaged by fire or wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein, or as to afford a refuge for disorderly persons as defined by [chapter 18](#) of the Code of the city.
- (7) Whenever a building or structure used, designed to be used, or zoned for dwelling purposes, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to work injury to the health, safety, or general welfare of its inhabitants or the general public. Violations of [chapter 14](#) may be used as the basis for a finding that a particular structure used, designed to be used, or zoned for dwelling purposes is unsanitary or unfit for human habitation because of dilapidation, decay, damage, faulty construction, faulty arrangement or otherwise.
- (8) Whenever a building or structure designed or zoned for use as a residence has remained vacant and boarded up for a period in excess of six (6) continuous months and has been found to be unfit for human habitation after inspection under [chapter 14](#) of this Code by the building inspection division of the department of community development.
- (9) Whenever a building or structure becomes vacant and open at the doors, windows,

walls, roof or other appurtenances, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

- (10) Whenever the building inspection division of the department of community development is able to establish that as to a particular dilapidated vacant structure there has existed a pattern where such structure has frequently remained open at the doors or windows leaving the interior of the building accessible to entrance by trespassers.

(Code 1977, § 9.2)

Sec. 17-27. Abatement of nuisances; procedure.

- (a) *Dangerous buildings as public nuisances.* All dangerous buildings are hereby determined to be public nuisances and shall be abated by repair, rehabilitation, or demolition in accordance with the procedures specified in this article.
- (b) *Departmental examination.* The building inspection division of the department of neighborhood and economic operations shall examine or cause to be examined any building or structure it believes to be abandoned, unsafe, or damaged, and if same is found to be a dangerous building, the division shall commence proceedings to cause its repair, rehabilitation or demolition. Whenever a building or structure designed or zoned for use as a residence has remained vacant and boarded up for a period in excess of six (6) continuous months, it shall be subject to periodic inspection by the building inspection division of the department of neighborhood and economic operations under the provisions of [chapter 14](#) of this Code.
- (c) *Commencement of proceedings; notice and order.*
- (1) The building inspection division of the department of neighborhood and economic operations shall commence proceedings under this section by issuing a notice and order directed to the owner or owners of record of a building or structure alleged to be dangerous. This notice and order shall require the owner of the building or structure alleged to be dangerous to commence, within the period of time established by the inspection division, the required repairs, rehabilitation or demolition of the building or structure. All required work shall be completed within the period of time set forth in the notice and order by the inspection division. If a building is occupied, the notice and order shall require the affected building, structure, or portion thereof to be vacated and not reoccupied until all required work has been completed and approved by the inspection division.
- (2) Service of the notice and order shall be made upon the owner or owners of record by:
- Personally delivering a copy to the owner; or
 - Mailing a copy by certified mail, postage prepaid, return receipt requested, to the owner as indicated by the records of the city assessor and posting a copy thereof upon a conspicuous part of the building or structure; or
 - When service cannot be made by either of the above methods, by publishing a copy in a newspaper of general circulation within the county at least once each week for three (3) consecutive weeks and posting on or before the date of the last publication, a copy upon a conspicuous part of the building or structure.
- (d) *Posting of signs on buildings deemed to be dangerous; recording documents.*
- (1) The building inspection division shall cause to be posted in a conspicuous place on any dangerous building or structure a notice to read:
- "Do Not Enter—Unsafe to Occupy"
- Such notice shall remain posted until the required repairs, rehabilitation or demolition is completed. Such notice shall not be removed without written permission of the building inspection division, and no person shall enter this building except for the purposes of

repairing, rehabilitating, or demolishing same.

- (2) The building inspection division shall record with the county register of deeds all dangerous structure condemnation notices and orders and building code board of examiners and appeals decisions upholding notices and orders within ten (10) business days of such notice, decision or order.
- (e) *Abatement procedures.* If at the expiration of the time limit in the notice and order the owner has not complied with the requirements thereof, the building inspection division may institute proceedings hereunder to abate the nuisance.
- (f) *Hearing; testimony; order; findings; noncompliance; costs.*
 - (1) Upon the request of the building inspection division in cases where a respondent has not complied with a notice and order issued under this article, the building code board of examiners and appeals shall conduct a hearing in order to determine whether the notice and order of the inspection division should be upheld.
 - (2) At least seven (7) days prior to the hearing referred to above, the building inspection division shall notify by first class mail the owner as shown by the city assessor's records. This notice shall consist of a copy of a complaint alleging noncompliance with the notice and order and a notice of hearing specifying the time and place of the hearing.
 - (3) The building code board of examiners and appeals shall take testimony and consider evidence presented by the building inspection division. In addition, the owner of the property and any interested party may present testimony and evidence if they so desire. Any board member may inspect any structure involved in the hearing prior to its commencement. The building code board of examiners and appeals shall render written findings of fact and a decision at the conclusion of the hearing either upholding the notice and order; upholding the notice and order with modifications; or dismissing the notice and order.
 - a. If the building code board of examiners and appeals determines, based upon the evidence presented at the hearing, that the structure referred to in the inspection division's notice and order is a dangerous building or structure, it shall uphold such order; or
 - b. If the building code board of examiners and appeals determines, based upon the evidence presented at the hearing, that the structure referred to in the inspection division's notice and order is a dangerous building or structure, but that the notice and order requires more than is reasonably necessary to abate the nuisance, it shall uphold such order with modifications thereto consistent with any action it deems necessary to abate such nuisance; or
 - c. If the building code board of examiners and appeals determines, based upon the evidence presented at the hearing, that the structure referred to in the inspection division's notice and order is not a dangerous building, the notice and order shall be dismissed.
 - (4) If the owner fails to comply with the decision of the board, the building inspection division shall take any and all action needed to bring the building or structure into compliance. The owner in whose name the property appears upon the last local assessment records shall be billed, if possible, for all costs of such action at the address shown on such records. If such owner fails to pay the same within thirty (30) days after mailing of the bill, the city council may cause such costs to be levied and assessed as a special assessment upon the property and against the owner, and the city may bring suit against the owner of record to recover such costs.
- (g) *Judicial review.* An owner aggrieved by any final decision or order of the building code board of examiners and appeals may appeal the decision or order to the circuit court by filing a petition

for an order of superintending control within twenty (20) days from the date of the decision or order.

- (h) *Consent provision.* The owner of any building or structure may at any time admit in writing that such building is a dangerous building within the meaning of this section and consent that such building may be demolished.
- (i) *Emergency order of the city manager.* Where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building is immediately altered, repaired or demolished, and notwithstanding the procedures set forth in this article, the city manager may cause the immediate repair, alteration, or demolition of such structure, and the cost thereof to be charged against the premises and the owner as provided in this section.
- (j) *Owner defined.* For purposes of this section, the term "owner" means the person shown as owner by the records of the city assessor.
- (k) *Building inspector not considered as ex officio member of board of appeals.* The building inspector shall not serve as an ex officio member of the building code board of examiners and appeals in any proceeding instituted under this section.
- (l) *Transfer of ownership.* It shall be unlawful for the owner of any building or structure alleged to be dangerous who has received a notice and order, or upon whom a notice and order has been served pursuant to subsection (c)(2) of this section, to sell, transfer, or otherwise dispose of to another until the provisions of the notice and order have been complied with, or until such owner shall first furnish the grantee or transferee a true copy of said notice and order issued by the building official, and shall furnish to the building official a signed and notarized statement from the grantee or transferee acknowledging the receipt of such notice and order, and fully accepting the responsibility, without condition, for making the required repairs, rehabilitation, or demolition to the alleged dangerous building or structure as required by such notice and order.
- (m) *Penalties.* Any person who willfully refuses to vacate a building ordered vacated under this section, who reoccupies or causes or allows such a building to be reoccupied without satisfying all requirements of a notice and order issued under subsection (c)(1) of this section, who, without permission, removes a notice posted on a building pursuant to subsection (d) of this section, or who transfers property in violation of subsection (l), shall be guilty of a misdemeanor and punished upon conviction thereof as provided in section 1-18 of this Code.
- (n) *Fees.* The city council shall establish by resolution, fees for charges in relation to costs or expenses incurred by the city in initiating or commencing proceedings before the building code board of examiners and appeals (board). Such fees shall include, but not necessarily be limited to, costs or expenses incurred for inspections conducted by city staff prior to board hearings, for actual proceedings before the board, and other costs or expenses relating to prosecution of a case before the board. All fees established pursuant to this subsection shall include the costs associated with reasonable overhead and administrative costs.

If an owner fails to pay an invoice for fees directed to him or her under this subsection, within thirty (30) days of mailing of said invoice, the city may cause the cost reflected in said invoice to be assessed against the premises as a special assessment, pursuant to Serial Section 273 of the City Charter, and the city may institute an action against the owner for the collection of said costs in any court of competent jurisdiction. However, the city's attempt to collect such costs by any process shall not invalidate or waive any lien filed against the property.

(Code 1977, § 9.3; Ord. No. 91-16, §§ 1, 2, 5-7-91; Ord. No. 96-8, §§ 1, 2, 6-4-96; Ord. No. 2012.28, § 1, 9-25-12)

Secs. 17-28—17-50. Reserved.