

CHAPTER 97: DANGEROUS OR SUBSTANDARD BUILDINGS

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§ 97.01 POLICY.

Pursuant to authority provided in M.S. § 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in § 97.02; and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements.

(Ord. 1125.07, passed 9-19-07)

§ 97.02 FINDINGS.

The City Council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkept grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties

to the detriment of the various districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated.

(Ord. 1125.07, passed 9-19-07)

§ 97.03 DANGEROUS OR SUBSTANDARD BUILDINGS DECLARED A NUISANCE.

Any structure or building, or portion of a structure or building, in which there exists any of the conditions listed in § 97.02 is a dangerous or substandard building, and is hereby declared to be a public nuisance.

(Ord. 1125.07, passed 9-19-07)

§ 97.04 CONDITIONS RENDERING BUILDING DANGEROUS OR SUBSTANDARD.

(A) *Structural hazards.*

(1) Any stress in any material, element, member or portion thereof, due to all dead and live loads, which is greater than the working stresses deemed reasonable and safe by the Building Official.

(2) Damage to any portion of a building by earthquake, wind, fire, flood, or by any other cause, in such a manner that the structural ability or strength thereof is appreciably less than the minimum requirements set forth in existing codes for a new building or structure of similar size, construction, location and purpose.

(3) Likelihood of any portion or member or appurtenance of a building to fall, or become dislodged or detached, or to collapse, and thereby cause bodily injury or property damage.

(4) Settling of any building or portion thereof to such an extent that walls or other structural portions have been displaced or distorted and rendered structurally unstable or dangerous, or that the basic function of such element has been impaired.

(5) The building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or structure or portion thereof, or other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(6) The building or structure, or any portion thereof, is for any reason whatsoever manifestly unsafe for the purpose for which it is used or intended to be used.

(7) The exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity of that wall or structural member does not fall inside the middle third of the base.

(8) The building or structure, exclusive of the foundation, shows 33% or more of damage or deterioration to the member or members, or 50% of damage or deterioration of a non-supporting enclosing or outside wall covering.

(9) The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated, from any cause whatsoever, as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals, or as to enable persons to resort thereto for the purpose of committing nuisances or unlawful acts.

(10) Any building or structure which has been constructed or now exists or is maintained in violation of a specific requirement or prohibition, applicable to such building or structure, of the building code provisions of the city or of any law or ordinance of this state or city relating to the location, use and physical condition of buildings or structures.

(11) Any building or structure which, whether or not erected in accordance with all applicable laws and this code, because of dilapidation, deterioration, damage, or other cause is so weakened or defective as to have in any non-support part, member or portion less than 50%, or in a supporting member less than 66%, of the strength or fire-resistive qualities or characteristics or weather-resistive qualities or characteristics required by law or ordinance in the case of a newly constructed building or structure of similar size, purpose and location.

(B) *Hazardous wiring.* All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

(C) *Hazardous plumbing.* All plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition and which is free of cross-connections and siphonage between fixtures.

(D) *Hazardous mechanical equipment.* All mechanical equipment, including vents, except that which conforms to all applicable laws in effect at the time of installation and which has been maintained in safe condition.

(E) *Faulty weather protection.*

(1) Deteriorated, crumbling or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior walls or roof coverings.

(F) *Inadequate fire protection.* All buildings which are not provided with the fire-resistive construction required by the Minnesota State Building Code except those buildings which conformed to all applicable laws at the time of their construction and whose fire-resistive integrity has been adequately maintained or improved.

(Ord. 1125.07, passed 9-19-07)

§ 97.05 SECURING VACANT BUILDINGS.

(A) In 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 city 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 six days after the order is served, the Building Official shall cause the building to be boarded up or otherwise properly secured. Whenever a building is boarded up pursuant to the authority of this chapter, the Building Official may cause all openings to the building to be boarded and secured.

(B) *Emergency.* When it is determined by the Building Official or the Chief of Police, 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 director of inspections or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

(1) The conditions showing the existence of an exigency are documented in writing by the Director of Inspections or the Chief of Police or the Fire Chief or their designees.

(2) Notice is to 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 reasons therefore.

(C) After a vacant or unoccupied building has been boarded 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 reoccupied, the director of inspections shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to

the owner. An administrative fee of \$75.00 and all other costs incurred by the city for boarding or otherwise securing a building under this chapter, including, but not limited to the actual costs for boarding, inspecting, posting and monitoring the building, shall be assessed as provided in § 93.04. **OWNER**, for the purposes of this section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the City, if any; or, if none, the person listed as owner by the City Assessor on the homestead record; or, if none, the taxpayer as shown by the records of the City Assessor.
(Ord. 1125.07, passed 9-19-07)

§ 97.06 INSPECTIONS AND ORDERS; APPEALS.

(A) *Inspection responsibilities of official.* Whenever it shall come to the attention of the Building Official by written complaint of any person or agency, or otherwise, that a building or structure is a dangerous or substandard building, the Official shall cause a preliminary examination to be made of the building or structure and premises. In the execution of the inspection, the Official shall avail to the services of such other agencies, employees, departments and officers of the city as the Official deems necessary. Upon completion of the inspection, if it then appears that the building or structure is a dangerous or substandard building, the city shall issue a written order to the owner or occupant requiring repair, removal, demolition or compliance. If no appeal is filed within ten days of the order, the order shall be deemed final.

(B) *Appeal of order.* Any person who deems to be aggrieved by any such order may appeal the order of the city to the City Council by filing a written appeal with the Clerk within ten days of such order. Such appeal shall fully state the order appealed from, the date thereof, and the facts of the matter. Upon such an appeal being filed, the Official also shall make a written report, supplemented by written reports from the other agencies, employees, departments and officials called upon by the Official in the execution of the inspection, and submit the reports to the Council.
(Ord. 1125.07, passed 9-19-07)

§ 97.07 COUNCIL TO CALL HEARING.

The Council shall examine the report of the Official, and if there is probable cause to believe that the building or structure is a dangerous or substandard building, shall have the matter set for hearing.
(Ord. 1125.07, passed 9-19-07)

§ 97.08 NOTICE OF HEARING.

The Council shall hear the appeal not later than 30 days after the date the appeal is filed. Notice of the hearing shall be given in a form prescribed by the Council. It shall set forth the street address and legal description sufficient for identification of the premises upon which the

building or structure is located. It shall contain a brief statement of the conditions mentioned in the report of the Official which show probable cause to believe that the building or structure is a nuisance within the meaning of this section. It shall also state the date, hour and place of the hearing and shall order all interested parties who desire to be heard in the matter to appear before the Council to show cause why the building or structure should not be ordered repaired, vacated and repaired, removed, or demolished.

(Ord. 1125.07, passed 9-19-07)

§ 97.09 SERVICE OF NOTICE.

(A) *Person to whom notice is served.* One copy of the notice shall be served upon the person, if any, in real or apparent charge and control of the premises involved; the record owner, the holder of any mortgage, trust, deed or other lien or encumbrance of record; the owner or holder of any lease of record; and the record holder of any other estate or interest in or to the building or structure or and upon which it is located.

(B) *Posting of notice.* One copy of the notice shall be posted in a conspicuous place upon the building or structure or premises involved.

(C) *Date of serving and posting notice.* The notice of hearing shall be posted and served at least ten days prior to the date set for the hearing.

(D) *Notice sent by certified mail.* The notice of hearing shall be served upon all persons entitled thereto either personally or by certified mail. Service by certified mail shall be effective on the date of mailing if a copy of such notice is so mailed, postage prepaid, return receipt requested, to each such person at the address of such person as it appears on the last equalized assessment roll of the County or as known to the Clerk. If no such address so appears or is known to the Clerk, then a copy of the notice shall be addressed to such person at the address of the building or structure involved in the proceedings. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any of the proceedings taken.

(E) *Affidavit of notice served.* The officer or employee upon serving the notice as provided herein shall file an affidavit thereof with the Clerk certifying to the time and manner in which such notice was served. The officer or employee shall also file therewith any receipt which may have been returned to the officer or employee in acknowledgment of the receipt of such notice by certified mail. (Ord. 1125.07, passed 9-19-07)

§ 97.10 HEARING.

(A) *Hearing and considering evidence.* The Council shall, at such hearing, hear and consider any evidence offered by the person or persons having any estate or interest in such building or structure pertaining to the matter set forth in the report of the Official.

(B) *Conclusion of hearing.* After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting. (Ord. 1125.07, passed 9-19-07)

§ 97.11 ORDER TO REPAIR, VACATE AND REPAIR, REMOVE OR DEMOLISH.

If the Council finds that the building or structure involved is a dangerous or substandard building within the terms of this section, then it shall issue an order:

(A) That the building or structure must be repaired, or vacated and repaired, or removed or demolished.

(B) That the occupant, lessee, or other person in possession must vacate the building, or that the occupant, lessee, or other person may remain in possession while repairs are being made.

(C) That any mortgage, beneficiary under deed of trust, or any other person having an interest or estate in said building may, at their own risk, repair, vacate and repair, remove or demolish said building or structure according to existing law and code provisions. (Ord. 1125.07, passed 9-19-07)

§ 97.12 ORDER TO BE SERVED.

Copies of the order to repair, or vacate and repair, or remove or demolish shall be served upon the individuals and in the manner as prescribed in § 97.09. A copy of the order shall also be posted in a conspicuous place upon the building or structure as prescribed in said subsection. (Ord. 1125.07, passed 9-19-07)

§ 97.13 STANDARDS FOR REPAIR, VACATION AND REPAIR, REMOVAL OR DEMOLITION.

The following standards shall be followed in substance and spirit by ordering the repair, vacation and repair, removal or demolition of any building or structure. Any order to remove or demolish, rendered pursuant to this section, shall not indicate an alternative permission to repair; however, an order to repair may be satisfied by removal or demolition.

(A) *Repairing building.* If the dangerous or substandard building can reasonably and economically be repaired so that it will no longer exist in violation of the provisions of this section, it shall be ordered repaired. For the purposes of this section, the term **REPAIR** shall include any improvements necessary to make such building comply with the applicable provisions of this code.

(B) *Vacating building.* If the dangerous or substandard building is in such condition as to make it dangerous to the health, moral, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(C) *Damaged buildings.* In any case where a dangerous building is 50% or more damaged, decayed, or deteriorated, it shall be ordered to be removed or demolished.

(D) *Unrepairable buildings.* In all cases where a dangerous or substandard building cannot be repaired, with reasonable economy, so that it will no longer exist in violation of the terms of this section, it shall be ordered to be vacated and removed or demolished.

(E) *Fire hazardous buildings.* In all cases where a dangerous or substandard building is a fire hazard, whether existing or erected in violation of the provisions of this code, or state law, and cannot reasonably and economically be repaired pursuant to § 470.08, it shall be ordered demolished.

(F) *Particulars of order.* The order shall set forth the street address of the building or structure and a legal description of the premises sufficient for identification. It shall contain a statement of the particulars which render the building or structure a dangerous or substandard building, and a statement of the things required to be done. The order shall state the time within which the work required must be commenced, the time being not earlier than ten days and no later than 30 days after the issuance of the order, and the order shall further specify a reasonable time within which the work shall be completed. The time for completion may, by action of the council, be extended for just causes and such authority for extended time shall be given in writing by the Council upon written application of any interested party or parties.
(Ord. 1125.07, passed 9-19-07)

§ 97.14 PENALTY FOR DISREGARDING, DEFACING OR DESTROYING ORDER; COUNCIL MAY ORDER WORK.

(A) *Penalty.*

(1) The owner or other person having charge and control of the building or structure cited in the order who shall fail to comply with any order to repair, or vacate and repair, or remove or demolish said building or structure shall be subject to the penalties as provided by § 10.99 of the code.

(2) The occupant or lessee in possession cited in the order who shall fail to comply with any order to vacate said building or structure in accordance with any order given as provided for in this section shall be subject to the penalties provided by § 10.99 of the code.

(B) *Defacing or destroying order.* Any person who removes or defaces or destroys a notice or order posted as required in this section shall be subject to the penalties provided by § 10.99 of the code.

(C) *Council may order repair or removal.* The Council may order the repair or removal of the building or structure cited in the order and obtain enforcement of the order and entry of judgment by the district court shall be in accordance with M.S. §§ 463.15 to 463.26 where such statutory provisions apply, which statutes are hereby adopted and incorporated into this chapter by reference and made a part of this chapter.

(Ord. 1125.07, passed 9-19-07)