

AN ORDINANCE REQUIRING THE VACATION, DEMOLITION OR REPAIR OF STRUCTURES WHICH HAVE BECOME A PUBLIC NUISANCE, ESTABLISHING PROCEDURES FOR ADMINISTRATION, SETTING FORTH REMEDIES AND PENALTIES FOR THE VIOLATION THEREOF AND MATTERS RELATING THERETO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FOLEY, MISSOURI, AS FOLLOWS:

Section 1: AUTHORITY

That cities of the fourth class, Foley being such, have the authority to provide for vacation and the mandatory demolition of buildings and structures or for the mandatory repair and maintenance of buildings or structures which are detrimental to the health, welfare, or safety of the residents and are declared to be a public nuisance under the provisions of RSMo. 67.400 et seq.

Section 2: CREATION OF BUILDING DEPARTMENT

The city hereby creates the appointive position of City Building Commissioner under the provisions of RSMo 79.230. The Mayor is hereby authorized to appoint a qualified individual or corporation to serve in this capacity upon the consent and approval of the Board of Aldermen. Said Commissioner may employ certain inspectors.

Section 3: DANGEROUS BUILDING DEFINED

All buildings or structures which have any of the following defects shall be deemed "dangerous buildings" provided that one or more of the conditions or defects exist to the extent that the life, property or safety of the public or its occupants are endangered.

a. Those whose 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 falls outside of the middle third of its base.

b. Those which, exclusive of the foundation, show substantial damage or deterioration of the supporting member or members or of the non-supporting enclosing or outside walls or covering.

c. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonable safe for the purpose used.

d. Those which have been damaged by fire, flood, wind, or other casualty so as to have become dangerous to life, safety, morals, or the general health, and welfare of the occupants or the people of the City.

e. Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those occupying such building.

f. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of persons who live or may live therein.

g. Those having any door, aisle, passageway, stairway or other means of exit which is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

h. Those buildings having any portion, or any members, appurtenance or ornamentation on the exterior thereof which is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting wind pressure, snow, or other loads.

i. Those which have been constructed, exist or are maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, use, location, or structure of buildings.

j. Those in which any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or snow than is reasonably required.

k. Those which any portion thereof, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.

l. Those which because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas piping, connections or heating apparatus, or other cause is determined to be a fire hazard.

m. Those which, because of obsolescence, dilapidated condition, deterioration, or casualty damage, are detrimental to the sale, loan or taxable values of surrounding properties; or which render or tend to render such surrounding properties uninsurable; or which constitute an eyesore so as to deprive owners or occupants of neighboring property of the beneficial use and enjoyment of their premises; or which present an appearance which is offensive to persons of ordinary sensibilities.

n. Those which are in such condition as to constitute a public nuisance as known to be in the common law or in equity jurisprudence.

o. Those which have any portion remaining on a site after the demolition or destruction of the building.

p. Those which are 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.

#### Section 4: PARTY DEFINED

The owner, occupant, lessee, mortgagee, agent, tenant, or any person having an interest in a building or structure, as shown by the official records of the county where the lands are located.

#### Section 5: PUBLIC NUISANCE DEFINED

Every building or structure deemed a Dangerous Building by a Building Inspector, or the Building Commissioner is hereby declared to be a public nuisance detrimental to the health, safety and welfare of the residents of the City.

#### Section 6: STANDARDS FOR VACATION, REPAIR OR DEMOLITION

The following standards shall be followed by the Building Inspectors and the Building Commissioner in ordering vacation, repair or demolition:

a) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety or general welfare of the public or the occupants, it shall be ordered to be vacated.

b) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Article, it shall be ordered to be repaired.

c) In any case where a "dangerous building" is damaged, decayed or deteriorated to a degree that it is not economically feasible to rehabilitate such building, the building shall be ordered to be demolished.

#### Section 7: DUTIES OF THE BUILDING INSPECTORS

The building inspectors shall:

a) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this code.

b) Notify in writing all parties of any building found to be a "dangerous building" that :

1. The owner must vacate and repair, or vacate and demolish said building;

2. The occupant or lessee must vacate said building or may have it repaired and remain in possession;

3. The mortgagee, agent or other parties may at their own risk vacate, repair or demolish or have such work or act done.

Such notice shall be served either by personal service or by certified mail, return receipt requested. If service cannot be had by the methods set forth above, a notice shall be inserted in a newspaper of general circulation in the County of Lincoln, State of Missouri, notifying the parties of the dangerous building.

In cases where any of the parties are absent from the City, all notices or orders provided for herein shall be sent by certified mail, return receipt requested, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

Any person notified under this subsection to repair, vacate and repair, or vacate and demolish any building shall be given not more than 10 days to commence the work, unless in the judgment of the Building Commissioner it is determined to be necessary to extend such time to do or have done the work as required by the notice. Said Building Commissioner shall notify in writing the date to which such extension is made.

4. Report to the Building Commissioner any noncompliance with the notice.

5. Appear and testify at all hearings conducted by the Building Commissioner.

#### Section 8: DUTIES OF THE BUILDING COMMISSIONER

The Building Commissioner or an authorized representative shall:

a) Upon receiving a complaint or report from any source that a dangerous building exists in this City, cause an inspection to be made forthwith.

b) Upon receipt of a report of a building inspector, give at least 21 days written notice to all parties to appear before him/her on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated and repaired, or vacated and demolished.

c) Hold a hearing and hear such testimony as the building inspector or parties shall offer relative to the "dangerous building".

d) Make written findings of fact from the testimony offered as to whether or not the building in question is a "dangerous building".

e) Issue an order based upon findings of fact commanding the parties to repair, vacate and repair, or vacate and demolish any building found to be a "dangerous building" and provided that any person so notified shall have the privilege of either repairing or vacating and repairing such building, if such repair will comply with the ordinances of this City or the owner or any other party may vacate and demolish said "dangerous building" at his/her own risk to prevent the acquiring by the City of a lien against the land where the "dangerous building" stands.

f) If parties fail to comply with the order or extension thereof, within the time specified, the Building Commissioner shall cause such building or structure to be repaired, vacated and repaired, or vacated and demolished as the facts may warrant. The Building Commissioner shall certify the charge for such vacation or demolition to the City Collector as a special assessment represented by a special tax bill against the real property affected, except when such certification is deemed to be not in the best interest of the City. The charge for abatement of the public nuisance shall include the actual cost of demolition and the actual cost of administering the provisions hereof. The tax bill shall be a lien upon said property until paid. At the request of the taxpayer, the tax bill may be paid in installments over a period of not more than 10 years.

g. Report to the City Attorney the names of all parties not complying with the orders issued by the Building Commissioner.

Section 9: DUTIES OF THE CITY ATTORNEY  
The City Attorney shall:

a) Prosecute all persons failing to comply with the terms of the notices and the orders provided for herein.

b) Appear at all hearings before the Building Commissioner in regard to "dangerous buildings".

c) Bring suit to collect all municipal liens, assessments, or costs incurred by the Building Commissioner in causing "dangerous buildings" to be vacated, repaired or demolished.

d) Take such other legal action as is necessary to carry out the terms and provisions of the Ordinance.

Section 10: VIOLATIONS - PENALTY FOR DISREGARDING NOTICES OR ORDERS  
The owner of any "dangerous building" who shall fail to comply with any notice or order to vacate, repair, or demolish said building shall be guilty of an infraction and upon conviction thereof shall be punishable as set forth in this Ordinance.

The party in possession, who fails to comply with any notice to vacate, and any other party having a legal duty who fails to repair said building in accordance with any notice given shall be guilty of an infraction and upon conviction thereof shall be punished as set forth in Section 11 of this Ordinance.

Section 11: RIGHT OF APPEAL

Any party aggrieved by any notice, finding or order may request a hearing before the Board of Aldermen. Any interested party aggrieved by the determination of the Board of Aldermen may appeal to the Circuit Court as established in Chapter 536 of the Revised Statutes of Missouri.

Section 12: VIOLATIONS AND PENALTIES

A. Violations - Any person, firm or corporation violating any of the provisions of the Ordinance shall be deemed guilty of an infraction and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Ordinance is committed, continued, or permitted.

B. Penalties - Upon conviction of any violation of the Ordinance, a person shall be punishable by a fine of not more than One Hundred (\$100.00) Dollars or by imprisonment of not more than 90 days, or both such fine and imprisonment. The imposition of penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to prevent any unlawful use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct of business or use in or about the premises.

Section 13: SEVERABILITY

In the event one clause or section of the Ordinance shall be found to be unenforcable it shall not effect the other clauses and sections of this Ordinance.

Section 14: EFFECTIVE DATE

This Ordinance shall become effective immediately upon its enactment and final passage.

READ THREE TIMES AND ENACTED BY THE BOARD OF ALDERMEN OF THE CITY OF FOLEY, MISSOURI THIS 19<sup>th</sup> DAY OF August, 1987.

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MAYOR

ATTEST:

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CITY CLERK