

GENERAL ORDINANCE NO. 01-1241

AN ORDINANCE CONCERNING ABATEMENT
OF DANGEROUS BUILDINGS AND REPEALING
GENERAL ORDINANCE NO. 87-1081

Section 1. Findings and Purpose. The City Council of the City of The Dalles finds and declares that dangerous buildings are public nuisances by virtue of their conditions or defects to the extent that the life, health, property or safety of the public or its occupants are endangered. The City Council further finds and declares that immediate abatement of dangerous buildings by repair, rehabilitation, demolition or removal is necessary to protect and preserve the safety of the citizens and neighborhoods where such structures are found. The procedures established in this ordinance shall be in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of any applicable City ordinance. This ordinance does not affect or alter other nuisance abatement procedures.

Section 2. Definitions. As used in this ordinance, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- A) Dangerous Building: For purposes of this ordinance, 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 of the occupants of the building, are endangered.
- 1) Whenever any door, aisle, passageway, stairway or other means of exit 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.
 - 2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as not to provide a safe and adequate means of exit in case of fire or other emergency.
 - 3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed by the Uniform Building Code for new buildings of similar structure, purpose or location.

- 4) Whenever any portion, member or appurtenance of the building or structure which has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Uniform Building Code for new buildings of similar structure, purpose or location.
- 5) Whenever any portion or member or appurtenance of the building is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- 6) Whenever any portion of the building has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- 7) Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; or (b) faulty construction; or (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or totally collapse.
- 8) Whenever the building or structure 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 transients, vagrants, or criminals.
- 9) Whenever 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 does not fall inside the middle one third of the base.
- 10) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- 11) Whenever the building or structure, used or intended to be used for dwelling purposes, is unsanitary, unfit for human habitation or is in such a condition that it is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or other cause.

- 12) Whenever the building or structure creates a fire hazard by virtue of its obsolescence, dilapidated condition, deterioration, damage, inadequate exiting, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause.
 - 13) Whenever the building or structure constitutes a public nuisance as defined by law.
 - 14) Whenever any portion of the building, including the foundation and slab or grade, or structure, remains on a site after the demolition or destruction of the building or structure.
 - 15) Whenever there are defective or overloaded electrical systems, faulty or leaking fuel piping systems, or deteriorated fuel combustion equipment or combustion product vents.
 - 16) Whenever the existing use or occupancy violates any applicable fire, health or building codes or regulations.
- B) Director of Buildings: The City Manager of the City of The Dalles, or the Manager's authorized designee.
- C) City: The City of The Dalles.

Section 3. Procedures for Notice and Order.

- A) Commencement of Proceedings. When the Director of Buildings has inspected or caused to be inspected any building and has found and determined the building is a dangerous building, the Director of Buildings shall commence proceedings to cause the repair, vacation or demolition of the building.
- 1) Notice and Order. The Director of Buildings shall issue a notice and order directed to the record owner of the building. The notice and order shall contain the following:
 - a) The street address and a legal description sufficient for identification of the premises upon which the building is located.
 - b) A statement that the Director of Buildings 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 2 of this ordinance.

- c) A statement of the action required to be taken as determined by the Director of Buildings.
- d) If the Director of Buildings 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 30 days from the date of the order) and completed within such time as the Director of Buildings shall determine is reasonable under all of the circumstances. [As amended by Ordinance No. 05-1257, adopted by City Council January 10, 2005.]
- e) If the Director of Buildings has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Director of Buildings to be reasonable.
- f) If the Director of Buildings has determined the building or structure must be demolished, the order shall require that the building be vacated within such time as the Director of Buildings shall determine is reasonable (not to exceed 30 days from the date of the order); that all required permits be secured therefor within 15 days from the date of the order; and that the demolition be completed within such time as the Director of Buildings shall determine is reasonable. [As amended by Ordinance No. 05-1257, adopted by City Council January 10, 2005.]
- g) The Director of Buildings shall advise the owner that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Director of Buildings will order the building vacated and posted to prevent further occupancy until the work is completed, and the Director may proceed to cause the work to be done and charge the costs thereof against the property or its owner including the costs of any structural engineering report incurred by the City. [As amended by Ordinance No. 05-1257, adopted by City Council January 10, 2005.]
- h) The Director of Buildings shall advise the owner that any person having any record title or legal interest in the building may appeal from the notice and order of any action of the Director of Buildings, provided the appeal is made in writing as set forth in Section 6 of this ordinance, and that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

- 2) Service of the Notice and Order. The Notice and Order shall be served upon the record owner or his agent and the person in possession of the property by any one of the following methods:
- a) Personal Service.
 - b) Certified Mail, postage prepaid, return receipt requested; or
 - c) Posting the Notice and Order conspicuously on or in the front of the property.

The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this section.

[Original Section 4 deleted by General Ordinance No. 05-1257, adopted by City Council January 10, 2005.]

Section 4. Repair, Vacation and Demolition.

- A) Standards: The Director of Buildings shall follow these standards in ordering the repair, vacation or demolition of any dangerous building:
- 1) Any building declared dangerous under this ordinance shall be repaired in accordance with the provisions of the Uniform Building Code in effect at the time of such declaration.
 - 2) The owner of the property, in cooperation with the Director of Buildings, shall assist in the relocation of any tenants which are displaced as a result of this abatement process.
- B) Posting of Signs:
- 1) When the Director of Buildings orders the vacation of tenants and when the building is secured, signs shall be posted at or near each entrance of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building
or to remove or deface this notice.
City Ordinance No. 01-1241
Director of Buildings

- 2) Order: The Notice to Vacate shall also be posted and it shall recite the conditions in the notice issued by the Director of Buildings.
- C) Trespass: No person shall remain in or enter any building which has been so posted, except that entry may be made to repair or demolish such building after the proper permits have been issued.
- D) Defacement: No person shall remove or deface any such sign or notice after it has been posted until the required repairs have been completed and all necessary permits have been obtained, or until demolition is finished and all debris removed pursuant to the demolition permit.

Section 5. Appeal of Director of Buildings' Notice. Any person having any title or legal interest in the property, building or structure may appeal from the Notice and Order or any action or determination made by the Director of Buildings. The notice to appeal must be made in writing and filed with the Director of Buildings within ten calendar days from the date the Notice and Order to be appealed is mailed.

- A) Processing of Appeal: As soon as practicable after receiving the written notice of appeal, the Director of Buildings shall notify the City Clerk who shall schedule a date time and place for a hearing before the City Council. Notice of the hearing shall be served upon each party having a legal interest in the property, by any of the methods listed herein for service of a Notice and Order, at least seven (7) days prior to the hearing.
- B) Scope of Hearing on Appeal: The City Council shall consider any written or oral evidence regarding the following issues:
 - 1) The Director of Buildings shall present information relating to the condition of the property, the respective health and safety hazards and the appropriate means of abatement.
 - 2) The owner or agent or person in possession of the property or any other interested person may present testimony or evidence concerning the condition of the property, the existence of a public nuisance, and any proposed methods and time frame to abate the nuisance conditions.
- C) Stay of Order Pending Appeal: Except where the circumstances require emergency action to abate an imminent hazard or to vacate tenants or to secure the building, enforcement of any Notice and Order of the Director of Buildings issued under this ordinance shall be stayed during the pendency of a proper and timely filed appeal.

- D) Procedures for Conducting Hearings: The City Manager, in consultation with the City Attorney, shall establish and promulgate all appropriate rules and procedures for conducting hearings and rendering decisions pursuant to this section.
- E) Final Decision: The decision of the City Council regarding any appeal is the final administrative order and decision of the City.

Section 6. Demolition Hearing. Upon the failure of the owner or his agent to demolish the property by the date specified in the Notice and Order, the Director of Buildings shall refer the matter to the City Council for a Demolition Hearing.

- A) Notice: As soon as practicable after the deadline expires in the Director of Buildings' Notice and Order, the Director shall request the City Clerk to set a date, time and place for a Demolition Hearing before the City Council. Such date shall be not less than ten days nor more than sixty days from the date the Director of Buildings requests the Demolition Hearing. Written notice of the time and place of the hearing shall be given at least ten calendar days prior to the hearing date to each party having an interest in the property. The notice of the Demolition Hearing shall be served in the same manner as described herein for the Notices and Orders.
- B) Scope: The City Council shall consider any written or oral evidence consistent with its rules and procedures for public hearings regarding the issues of whether the building or structure is a public nuisance and whether demolition is a reasonable remedy under the circumstances.
 - 1) The Director of Buildings shall present information relating to the condition of the property, the respective health and safety hazards and the justifications for demolition.
 - 2) The owner or agent or person in possession of the property or any other person with a legal interest may present testimony or evidence concerning the existence of a public nuisance and whether demolition is necessary.
- C) Decision: The City Council may confirm the determination of the Director of Buildings that a public nuisance exists by virtue of the dangerous building and that demolition is the appropriate remedy under the circumstances. The decision of the City Council is the final administrative order.
- D) Owner's Response: The owner or agent or person in possession of the premises, however, may obtain proper permits and demolish the building or structure within thirty (30) calendar days after the City Council orders demolition. [As amended by Ordinance No. 05-1257, adopted by City Council January 10, 2005.]

- E) Demolition: In the event the owner or agent or person in possession of the property does not abate the conditions determined to be a public nuisance, the building or structure shall be demolished by personnel designated by the City Manager or by a private contractor hired by the City.

Section 7. Enforcement of Notice or Order.

- A) Failure to Obey: When any Notice and Order of the Director of Buildings or the City Council made pursuant to this ordinance has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. If, after any such Notice and Order of the Director of Buildings or decision by the City Council, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Director may (1) cause such person to be prosecuted for such violation, or (2) institute any appropriate action to abate such building as a public nuisance.
- B) Failure to Commence Work: Whenever the required repair or demolition is not commenced within the thirty days after any final Notice and Order is issued under this ordinance, the following rules apply:
- 1) The Director of Buildings may cause the building described in such Notice and Order to be vacated by giving reasonable notice to the tenants and by posting at each entrance a sign in substantially the following form:

DANGEROUS BUILDING
DO NOT OCCUPY
It is a misdemeanor to occupy this building
After _____, or
to remove or deface this notice.
City Ordinance No. 01-1241
Director of Buildings
 - 2) After the date specified in the notice, no person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs ordered by the Director of Buildings have been completed and all necessary permits have been obtained, or until demolition is finished and all debris removed pursuant to a demolition permit.
 - 3) The Director of Buildings may in addition to any other remedy provided by law, correct only those conditions which render the building dangerous as set forth in the Notice and Order; or, if the notice required demolition, schedule a Demolition Hearing.

- C) Extension of Time: Upon a written request from the person required to obey the Notice and Order and a written agreement by such person that he or she will comply with the Notice and Order if allowed additional time, the Director of Buildings may, in his or her discretion, grant an extension of time, not to exceed an additional one hundred and twenty days, to complete the repairs, rehabilitation or demolition, if the Director of Buildings determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property and the circumstances which justify the delay are beyond the control of the applicant. The Director of Buildings' 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 any Notice and Order or previously scheduled hearings.
- D) Interference With Repair of Demolition Work Prohibited. No person shall obstruct, impede or interfere with any officer, employee or contractor or authorized representative of the City or with any person who owns or holds any estate or interest in any building while conducting repairs, vacation of tenants or demolition pursuant to the provisions of this ordinance.

Section 8. Performance of Work of Repairs or Demolition. When any repair or demolition is done by the City, the City Manager shall accomplish the work by using City work crews or hiring a private contractor.

Section 9. Work Costs and Administrative Costs. All costs to repair or demolish the structure incurred by the City, and an administrative fee of \$500.00, shall be assessed against the owner as a personal obligation and may be made a lien against the real property, in the manner prescribed by State law for enforcement of liens and collection of assessments. The following rules apply: [As amended by Ordinance No. 05-1257 adopted by City Council January 10, 2005.]

- A) Accounting Report: The Director of Buildings shall keep an itemized account of the expenses incurred in the repair or demolition of any dangerous buildings. Upon completion of the repairs or demolition, the Director of Buildings shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, including the costs of any structural engineering report incurred by the City, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice. [As amended by Ordinance No. 05-1257 adopted by City Council January 10, 2005.]

- B) Confirmation of Costs Hearing: Upon receipt of this report, the City Clerk shall fix a date, time and place for a public hearing before the City Council regarding this report and any protests or objections. The Director of Buildings shall cause notice of this hearing to be served upon the owner and occupant or person in possession. This notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour and place when the City Council will consider and pass upon the Director of Buildings' report.
- C) Protests and Objections: Any person affected by the proposed assessment may file written protests or objections with the Director of Buildings at least forty-eight hours prior to the time set for the public hearing. Each such protest or objection must contain a legal description of the property in which the signer has an interest, or sufficient information to identify the property, and the grounds of such protest or objection. The Director of Buildings shall present such protests or objections to the City Council at the hearing.
- D) Hearing: Upon the day and hour set for the hearing, the City Council shall hear and pass upon the Director of Buildings' accounting and report together with any such oral or written objections or protests. The City Council may make such revisions, corrections or modifications in the report or the cost of the work as it may deem just. When the hearing has been completed, the report (as submitted or as revised, corrected or modified) and the cost of the work, shall be confirmed or rejected by resolution of the City Council. The decision of the City Council on the report and the cost of the work and on all protests or objections is final.

Section 10. Entry: Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Director of Buildings has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such buildings or premises unsafe, dangerous or hazardous, the Director of Buildings may enter such building or premises at all reasonable times to inspect the same in regard to such condition or conditions, provided that if such building or premises be occupied, the Director shall first present proper credentials and request entry; and if such building or premises be unoccupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If such entry is refused, the Director shall seek an appropriate order from a court of competent jurisdiction.

Section 11. Injunction; Other Court Action: In addition to all other remedies and penalties provided by this ordinance and other City ordinances, the City Attorney may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief, to halt any violation of this ordinance. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this ordinance shall be deemed to restrict a suit for damages on behalf of the City or on behalf of any other person or entity.

Section 12. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

Section 13. Penalty. Any person, firm or corporation violating any provision of this ordinance shall be subject to a fine not to exceed the sum of five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 14. Repeal. General Ordinance No. 87-1081, adopted on February 17, 1987, is hereby repealed.

Adopted by the City Council and approved by the Mayor June 11, 2001.