

ORDINANCE NO. 792

AN ORDINANCE PROVIDING FOR THE ABATEMENT OF BUILDING NUISANCES, PROVIDING NOTICE, HEARING AND ASSESSMENT PROCEDURES, PROVIDING FOR SUMMARY ABATEMENT, PRESCRIBING PENALTIES AND DECLARING AN EMERGENCY

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purposes 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:

Dangerous Buildings.

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not 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 to not provide safe and adequate means of exit in case of fire or panic.

(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 (1 1/2) the working stress or stress allowed in the Building Code for new buildings of similar structure, purpose or location.

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structure strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(5) Whenever any portion or member or appurtenance thereof 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 a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half (1/2) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

(7) Whenever 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 earthquakes than is required in the case of similar new construction.

(8) Whenever the building or structure, or any portion thereof, because of:

- (i) dilapidation, deterioration or decay;
  - (ii) faulty construction;
  - (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
  - (iv) the deterioration, decay or inadequacy of its foundation; or
  - (v) any other cause, is likely to partially or completely collapse.
- (9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (10) 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 (1/3) of the base.
- (11) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting members or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- (12) 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:
- (i) an attractive nuisance to children; such that it constitutes a dangerous condition to children who because of their inability to appreciate the danger associated with the condition may reasonably be expected to be attracted to said dangerous condition.
  - (ii) a harbor for vagrants, criminals or immoral persons; or as to
  - (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- (13) Whenever any building or structure 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, or of any law or ordinance of this City relating to the condition, location or structure of buildings.
- (14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:
- (i) strength;
  - (ii) fire-resisting qualities or characteristics; or
  - (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (15) Whenever a 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.

(16) Whenever 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, is determined by the Fire Marshal to be a fire hazard.

(17) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

Owner. Owner of the title to real property, or the contract purchaser of real property, as shown on the last available complete assessment roll in the office of the county assessor.

Person. Every natural person, firm, partnership, association or corporation.

Section 2. Nuisance Declared. Every building found by the Council to be a dangerous building is declared to be a public nuisance and may be abated according to the procedures specified in this ordinance or by a suit for abatement brought by the City.

Section 3. Initial Action. When the City Building Official determines that a dangerous building exists in the City, the official shall report it to the Council. The Council shall, within a reasonable time, fix a time and place for a public hearing.

Section 4. Mailed Notice.

(1) The City Recorder shall notify the owner 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.

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

Section 5. 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 (3) public places in the City.

Section 6. Hearing.

(1) At the hearing, the owner or other interested parties shall have the right to be heard.

(2) The Council may inspect the building and consider the facts observed in determining whether the building is dangerous.

(3) (a) If the Council determines that the building is dangerous, the Council may by resolution:

- (i) Order the building to be demolished; or
  - (ii) Order the building to be made safe and prescribe what must be done to make it safe.
- (b) In the resolution, the Council may set a time, not less than ten (10) days, within which the order must be obeyed.

Section 7. Council Orders; Notice. Notice of the Council's determination and order by the Council shall be sent by certified or registered mail to the owner of the building. If the orders are not obeyed, and the building is not made safe within the time specified by the order, the Council may order the building demolished or made safe at the expense of the owner of the property on which it is located.

Section 8. Abatement by the City. If the Council orders are not complied with, the Council may specify 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.

Section 9. Assessment.

- (1) The City shall forward to the owner, by registered or certified mail, a notice stating:
- (a) The total cost of abatement, including the administrative costs.
  - (b) That the costs as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
  - (c) 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 ten (10) days from the date of the notice.
- (2) No sooner than thirty (30) days after the date of the notice of costs, the Council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.
- (3) If the costs of the abatement are not paid within thirty (30) days from the date of the notice of costs, or, if an objection was filed, within ten (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.
- (4) The lien shall bear interest at the legal rate recognized by law at the time of assessment. The interest shall begin to run from the date of entry of the lien in the lien docket.
- (5) Collection of the lien shall be in accordance with ORS 223.510 to 223.595.

Section 10. Summary Abatement. The procedures of this ordinance need not be followed if the condition of a building is unmistakably dangerous and imminently endangers life or property. In this instance, the Chief of the Fire Department,

the Fire Marshal, the Chief of Police, or any other City official authorized by the City Council may summarily abate the nuisance.

Section 11. Errors in Procedure. Failure to conform to the requirements of this ordinance that does not substantially and adversely affect the legal right of a person does not invalidate a proceeding under this ordinance.

Section 12. Penalty. A person who owns a dangerous building and who allows the building to remain dangerous past the time established in the notice described in Section 7 may be fined not more than \$500.00. Each subsequent day that the violation continues shall be considered a separate offense.

Section 13. Emergency Declared. In view of the necessity to prescribe regulations concerning the abatement of dangerous buildings and other such building nuisances, to better promote the safety, health and welfare of the citizens of Canby, Oregon, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its final reading and passage by the Canby City Council.

SUBMITTED to the Council and read the first time at a regular meeting thereof on the 4th day of June, 1986; ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on the 18th day of June, 1986, commencing at the hour of 7:30 o'clock p.m., at the Council's regular meeting chambers at the Canby City Hall, in Canby, Oregon.

  
Marilyn K. Perkett, City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on 18th day of June, 1986; by the following vote: YEAS 6 NAYS 0.

  
William F. Pulver, Mayor

ATTEST:

  
Marilyn K. Perkett, City Recorder