



ORDINANCE 2007-004

AN ORDINANCE REPEALING SECTION 15.04.180 OF THE SHERWOOD MUNICIPAL CODE RELATING TO DANGEROUS BUILDINGS AND ADOPTING A NEW CHAPTER - 15.21 - RELATING TO THE REGULATION OF DANGEROUS BUILDINGS; DECLARING AN EMERGENCY

WHEREAS, the City of Sherwood adopted the 1994 Uniform Code for the Abatement of Dangerous Buildings and has been using that Uniform Code since its adoption in 1998; and

WHEREAS, use of that Uniform Code has become problematic and cumbersome and the City Attorney's office developed a set of regulations addressing dangerous buildings based on the 1997 Uniform Dangerous Buildings Code; and

WHEREAS, the modifications made by the City Attorney's Office to the 1997 Uniform Code make the regulation of dangerous buildings easier, more time and cost effective, flexible and will allow for enforcement of the regulations using the city's municipal court rather than the specialized process contemplated by the Uniform Codes.

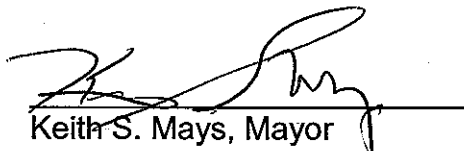
NOW THEREFORE THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Section 15.04.180 (Dangerous Buildings Code) of the Sherwood Municipal Code is hereby repealed.

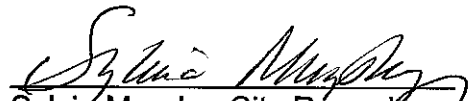
Section 2. A new Chapter (15.21 - "Dangerous Buildings") is hereby added to the Sherwood Municipal Code a copy of which is attached hereto as Exhibit 1.

Section 3. It is necessary that the actions taken by this ordinance in adopting a more flexible and useful set of regulations to address the issues presented by the existence of dangerous buildings in the City be effective immediately so that the health safety and welfare of the citizens of Sherwood, is preserved, therefore this ordinance is and shall be effective from and after its passage by the Council.

Duly passed by the City Council this 6th day of February 2007.


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Weislogel	<u>✓</u>	<u> </u>
Luman	<u>✓</u>	<u> </u>
King	<u>✓</u>	<u> </u>
Henderson	<u>✓</u>	<u> </u>
Heironimus	<u>Absent</u>	<u> </u>
Grant	<u>✓</u>	<u> </u>
Mays	<u>✓</u>	<u> </u>

Chapter 15.21
Dangerous Buildings

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15.21.010 Purpose.

- A. This Chapter is to provide a method (cumulative with and in addition to any other remed(ies) available to the City by law) whereby buildings or structures which from any cause endanger the life, limb, health, property, safety or welfare of the general public or the building's occupants such that they should be required to be repaired, vacated or demolished.
- B. This Chapter does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms hereof.

15.21.015 Scope.

This Chapter shall apply to all "Dangerous Buildings" as herein defined be they now in existence or which may hereafter become Dangerous Buildings in the City.

15.21.020 Alternations, Additions & Repairs.

All buildings or structures required to be repaired under the provisions of this Chapter shall be subject to the provisions of Section 3403 of the Oregon Structural Specialty Code as it currently exists or may hereafter be amended and adopted by the State.

15.21.025 Administration.

The Building Official is hereby authorized to enforce the provisions of this Chapter. The Building Official shall have the power to render interpretations of this Chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Chapter.

15.21.030 Inspections.

The Building Official and others such as the Fire Marshall and Washington County Health Department officials are authorized to make such inspections and take such other actions as may be required to enforce the provisions of this Chapter, including (but not limited to) the issuance of stop work or similar abatement orders.

15.21.035 Right of Entry.

- A. When necessary to make an inspection to enforce the requirements imposed by the terms of this Chapter (or when the Building Official has reasonable cause to believe there exists in a building or upon a premises a condition contrary to or in violation of this Chapter making the building or premises unsafe, dangerous or hazardous) the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested.
- B. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

15.21.040 Dangerous Buildings declared to be Public Nuisances; Abatement.

All buildings or portions thereof determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Chapter.

15.21.045 Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Chapter.

15.21.050 Inspections of Work.

All buildings or structures within the scope of this Chapter and all construction or work for which a permit is required shall be subject to inspection by the Building Official consistent with and in the manner provided by this Chapter and Sections 108 and 1701 of the currently adopted Oregon Structural Specialty Code and other relevant provisions of municipal, county or state law.

15.21.055 Definitions.

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's 3rd New International Dictionary of the English Language (Unabridged, copyrighted 1986) shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

- A. **Building Official** is the City's Building Official or such other person as may be designated as such by the Building Official.
- B. **Building Code** has the meaning given by the terms of ORS 455.010 to "state building code" and includes all specialty codes as defined in ORS 455.010.
- C. **City** mean the City of Sherwood.
- D. **Dangerous Building** is any building or structure having one or more of the conditions or defects hereinafter described provided that such condition(s) or defect(s) exist to the extent that the Building Official or their designate can reasonably believe the life, health, property or safety of the public or the Building's or structure's occupants 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 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 the working stress or stresses allowed in the current applicable structural code as defined in ORS Chapter 455 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 structural 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 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 of the base.
11. 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 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;
 - ii. a harbor for vagrants and/or criminals; or
 - iii. so as to enable persons to resort thereto for the purpose of committing unlawful 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 jurisdiction, (as specified in the appropriately adopted Oregon Building Code) or of any law or ordinance of this state or jurisdiction 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.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is 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.

15.21.060 Commencement of Proceedings.

When the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a Dangerous Building, the Building Official shall commence proceedings to cause the repair, vacation or demolition thereof.

15.21.065 Notice and Order.

The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- A. The street address and a description sufficient for identification of the premises upon which the building is located.
- B. A statement that the Building Official has found the building dangerous with a brief factual description of the conditions found to render the building dangerous.
- C. A statement of the action(s) required to be taken by the Building Official:
 1. If the building must be repaired, the notice and order shall require all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine reasonable under all of the circumstances.
 2. If the building must be vacated, the order shall require that the building or structure be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.
 3. If the building or structure is to be demolished, the order shall require that the building be vacated within such time as the Building Official determines reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 30 days of the date of the order; and that the demolition be completed within such time as the Building Official determines reasonable thereafter.
- D. Statement advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official:
 1. will order the building vacated and posted to prevent further occupancy until the work is completed; and
 2. may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- E. Statements advising:

1. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Municipal Court provided the appeal is made in writing as provided in this Chapter and filed with the Building Official within 14 days from the date of service of such notice and order; and
2. that failure to appeal will constitute a waiver of all right to a hearing and determination of the matter.

15.21.070 Service of Notice and Order.

The notice and order (and any amended or supplemental notice and order) shall be served upon the record owner and posted on the property with a copy thereof being served on each of the following (if known to the Building Official or disclosed from official public records):

- A. the holder of any mortgage or deed of trust or other lien or encumbrance of record;
- B. the owner or holder of any lease of record; and
- C. the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

15.21.075 Method of Service.

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, to each such person at their address as it appears in the Washington County tax records or as otherwise known to the Building Official. If no address of such person appears or is known to the Building Official, then a copy of the notice and order shall be mailed (addressed to such person) at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

15.21.080 Proof of Service.

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

15.21.085 Repair, Vacation and Demolition.

- A. Any building declared a dangerous building under this Chapter shall be made to comply with one of the following:
 1. The building shall be repaired in accordance with the current state building code or other current code applicable to the type of substandard conditions requiring repair; or
 2. The building shall be demolished consistent with subsection D below.
- B. If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.

- C. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or the building's occupants, it shall be ordered vacated, secured and maintained against entry.
- D. If a building or structure is found to be or becomes dangerous and if (in the opinion of the Building Official) the building or structure is not, under current circumstances likely to be repaired so as to be habitable within 120 days, it may be ordered demolished by the Building Official with the cost thereof borne by the owners. In the event the Building Official determines that a building is to be demolished, the Building Official shall make a written order which includes the circumstances supporting demolition. The order shall be served on all persons entitled to notice under 15.21.070 and is subject to a 21 day appeal consistent with the provisions of 15.21.100.

15.21.090 Notice to Vacate - Posting.

Every notice to vacate shall, in addition to being served shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

City Building Official
City of Sherwood, Oregon

15.21.095 Compliance with Notice to Vacate.

- A. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued under 15.21.065 reciting the emergency and specifying the conditions which necessitate the posting.
- B. No person shall remain in or enter any building which has been so posted except that entry may be made to repair, demolish or remove such building under permit.
- C. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and all lawful requirements been met.

15.21.100 Form of Appeal.

- A. Any person entitled to service under 15.21.070 may appeal from any notice and order or any action of the Building Official under this Chapter by filing with the Municipal Court a written appeal containing:
 - 1. A heading in the words: "Before the Municipal Court of the City of Sherwood, Oregon".
 - 2. A listing of the names of all appellants participating in the appeal along with a brief statement setting forth the legal interest of each appellant in the building or the land involved in the notice and order.

3. A brief statement concerning the basis for the appeal together with any material fact(s) claimed to support those contentions and why the protested order or action should be reversed, modified or otherwise set aside.
 4. The signatures of all parties named as appellants and their official mailing addresses.
 5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The appeal shall be filed within 14 days of the date of service of the Building Official's order or action; however if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with 15.21.090, such appeal shall be filed not later than 10 days from the date of the service of the notice and order of the Building Official.

15.21.105 Scheduling Appeal for Hearing.

As soon as practicable after receiving the written appeal, the Municipal Court shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than then (10) nor more than sixty (60) days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Court either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

15.21.110 Effect of Failure to Appeal.

Failure of any person to file an appeal in accordance with the provisions of Section 15.21.100 shall constitute a waiver of the right to a hearing and adjudication of the notice and order or any portion thereof.

15.21.115 Scope of Appeal Hearing; Stay of Order.

- A. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- B. Except for vacation orders made pursuant to Section 15.21.085, enforcement of any notice and order of the Building Official issued under this Chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

15.21.120 Form of Notice of Hearing to Appellant.

The notice to the appellant(s) shall be substantially in the following form:

"You are hereby notified that a hearing will be held before the _____ Municipal Court at on the ____ day of _____, 20__ at the hour _____ upon the notice and order served upon you for alleged violation(s) of Chapter 15.21 (Dangerous Buildings) of the Sherwood Municipal Code. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present relevant evidence and will be given full opportunity to - examine all witnesses."

15.21.125 Record.

A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the court.

15.21.130 Conduct of Hearings

Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Oral evidence shall be taken on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in Oregon. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in Oregon. Irrelevant and unduly repetitious evidence shall be excluded.

15.21.135 Rights of Parties.

The City and the appellant(s) shall be able:

- A. To call and examine witnesses on matters relevant to the issues of the hearing;
- B. To introduce documentary and physical evidence;
- C. To cross-examine opposing witnesses;
- D. To rebut evidence; and
- E. To be represented by anyone lawfully permitted to do so.

15.21.140 Official Notice.

In reaching a decision, official notice may be taken (either before or after submission of the case for decision) of any fact which may be judicially noticeable by Oregon courts. Parties present at the hearing shall be informed of the matters to be noticed which is to be noted in the record. Parties present at the hearing shall be given a reasonable opportunity to refute the noticed matters by evidence or by written or oral presentation of authority.

15.21.145 Inspection of the premises.

The Court may inspect any building involved in an appeal during the course of the hearing provided that: notice of such inspection shall be given the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and, the judge shall state for the record after said inspection the material facts observed and the conclusions drawn therefrom.

15.21.150. Form of decision; Judicial review.

- A. With appeals heard by the Municipal Court, the Court shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) prepare a written decision which shall contain findings of fact, a determination of the issues presented and the requirements, if any, to be complied with. The effective date of the decision shall be as stated therein. A copy of the decision shall be delivered to the City and appellant by regular mail, postage prepaid.

- B. Judicial review of the Court's decision shall be by way of writ of review as provided for in ORS 34.010 to ORS 34.100.

15.21.155. Enforcement of Orders.

After any order of the Building Official or Municipal Court made pursuant to this Chapter has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. If, the person to whom such order is directed fails neglects or refuses to comply with said order, the Building Official may take any and all actions deemed by him, in consultation with the City Manager and City Attorney to be appropriate including the filing of supplementary enforcement or compliance action(s) in a court of competent jurisdiction.

15.21.160 Failure to Commence Work.

Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this Chapter becomes effective:

- A. The Building Official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**DANGEROUS BUILDING
DO NOT OCCUPY**

It is unlawful to occupy this building or to remove or deface this notice.

City Building Official
City of Sherwood, Oregon

- B. 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, demolition or removal ordered by the Building Official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.
- C. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner provide for the collective of assessment or nuisance liens under state statute or city code. Any surplus realized from the sale of any such building or from the demolition thereof, over and above the cost of demolition, administrative costs and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

15.21.165 Interference with Repair or Demolition Work Prohibited.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this Chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this Chapter, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or

structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this Chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Chapter.