

## CHAPTER 3-8 DANGEROUS OR ABANDONED BUILDINGS AND STRUCTURES

### **3-8-1 Definitions**

For the purpose of this Code, any building, structure or mobile home 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 immediate life, health or safety of the public or its occupants is endangered:

- (a) 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 likely to collapse and thereby injure persons or property.
- (b) 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.
- (c) Whenever any portion thereof has warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of similar new construction and is likely to collapse.
- (d) Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.
- (e) 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 state in such manner that it is likely to collapse and thereby injure persons or property.
- (f) 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 building official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (g) 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 causes, is determined by the building official to be a fire hazard.
- (h) 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 of three (3) months so as to constitute such building or portion thereof, a nuisance or hazard to the public.

### **3-8-2 Enforcement**

- (a) Administration. The city manager or his authorized representative is hereby authorized to enforce the provisions of this article.
- (b) Commencement of proceedings. Whenever the building official has inspected any building and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation or demolition of the building.
- (c) 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:

(1) Address, description. The street address and legal description sufficient for identification of the premises upon which the building is located.

(2) Statement by building official. A statement that the building official 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 this article.

(3) Statement of action required. A statement advising that any person having any recorded title or legal interest in the building may appeal from the notice and order or any action of the building official to the city commission. The appeal must be made in writing as provided in this article, and filed with the building official within ten (10) days from the date of service of such notice and order. In addition the notice must advise that failure to appeal will constitute a waiver of all rights to a hearing on the matter.

### **3-8-3 Action required**

The following action shall be taken as determined by the building official:

(a) If the building official has determined that the building must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within thirty (30) days from the date of the order, and to be completed within one hundred twenty (120) days from the date of the order.

(b) If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within forty-five (45) days from the date of the order.

(c) If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated (if necessary) and all permits secured within forty-five (45) days from the date of the order, and that the demolition be completed within sixty (60) days from the date of the order. Completed demolition shall include fencing or filling of open basements as soon as exposed.

### **3-8-4 Service of notice and order**

The notice and order and any amended or supplemental notice and order shall be served upon the record owner of the building and/or property, and tenants.

### **3-8-5 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 repaid, return receipt requested, to the property owner, If no address of any such person so appears or is known to the building official, a copy of the notice and order shall be published one (1) time in the legal newspaper.

### **3-8-6 Standards to be followed in repair, vacation and demolition**

Standards to be followed in repair, vacation and demolition shall be followed by the building official in ordering the repair, vacation or demolition of any dangerous building or structure:

(a) The conditions or defects causing a building to be declared dangerous under this article shall either be repaired in accordance with the current building code or shall be demolished at the option of the building owner.

(b) 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 its occupants, it shall be ordered to be vacated.

### **3-8-7 Board of appeals**

(a) Established. In order to provide for final interpretation of the provisions of this article and to hear appeals provided for hereunder, there is hereby established a board of appeals, which shall be the board of city council.

(b) Filing of appeal. Any person may appeal from any notice and order or any action of the building official under this article by filing at the office of the building official within ten (10) days from the date of the service of such order a written appeal containing:

(1) A brief statement of the specific order or action protested, together with any material facts claimed to support the contentions of the person appealing.

(2) A brief statement of the relief sought and reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

(c) Processing of appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular meeting of the city council.

(d) Scheduling a noticing appeal for hearing. As soon as practicable after receiving the written appeal, the city commission shall fix a date, time and place for the hearing of the appeal. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant.

(e) Failure to appeal. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion, thereof.

(f) Staying of order under appeal. Enforcement of any notice and order of the building official issued under this article shall be stayed during the pendency of an appeal there from which is properly and timely filed.

### **3-8-8 Enforcement of the order of the building official or the city council**

(a) Failure to commence work. Whenever the required repair or demolition is not commenced within thirty (30) days after a final notice and order issued under this article becomes effective:

(1) The building official shall declare the building described as dangerous and order it to be vacated by posting at each entrance thereto a notice stating the building is dangerous and unsafe for human occupancy.

(2) 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 has been completed.

(b) Interference with repair or demolition work prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city, 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 article.

(c) Failure to obey order. If, after any order of the building official or city council made pursuant to this article has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the city council may cause such person to be prosecuted for violation of this article.

(d) Violations. Each day a violation occurs may be considered a separate violation.

(e) Costs. All repair or demolition costs shall be the responsibility of the owner and any charges incurred by the City of Howard shall be billed or assessed, and collected, pursuant to South Dakota law.