

AN ORDINANCE OF THE CITY OF WOOD HEIGHTS MISSOURI, REGARDING DANGEROUS BUILDINGS AS NUISANCES AND THEIR REMOVAL OR RECONDITIONING, PROVIDING FOR THEIR DEMOLITION OR REPAIR BY THE CITY OF WOOD HEIGHTS AND PERTAINING TO INSURANCE PROCEEDS FROM DAMAGE OR LOSS TO BUILDINGS OR STRUCTURES.

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

Section 1. Purpose and scope.

It is the purpose of this ordinance to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or general public, and this ordinance shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Wood Heights, Missouri.

Section 2. Dangerous buildings defined.

All buildings that are detrimental to the health, safety or welfare of the residents of the City of Wood Heights and that have any or all of the following defects shall be deemed "dangerous buildings":

Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

Those that, exclusive of the foundation, show thirty-three (33) percent or more damage or deterioration of the supporting member or members or fifty (50) percent damage or deterioration of the non-supporting enclosing or outside walls or covering.

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

Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.

Those that are so dilapidated, decayed, unsafe, unsanitary or that 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, safety or welfare of those occupying such building.

Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.

Those that have parts thereof that are so attached that they may fall and injure members of the public or property. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

Section 3. Dangerous buildings declared nuisance.

All dangerous buildings, as defined by Section 2, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided.

Section 4. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector and the building commissioner, in ordering repair, vacation or demolition of any dangerous building.

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

If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.

In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be demolished.

In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of this city or statute of the State of Missouri, it shall be repaired or demolished.

Section 5. Building inspector.

All city police officers and all other City of Wood Heights employees so designated by the mayor shall be building inspectors within the meaning of this ordinance.

Section 6. Duties of building inspector: procedure and notice.

The building inspector shall have the duty under this ordinance to:

Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether an conditions exist that render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.

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 ordinance, and the building inspector determines that there are reasonable grounds to believe that such building is dangerous.

Inspect any building, wall or structure reported by the fire or police departments of this city as probably existing in violation of this ordinance.

Notify in writing, either the personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee,

agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Ray County, of any building found by him to be a dangerous building within the standards set forth in Section 2.

The notice required shall state that:

The owner must vacate, vacate and repair or vacate and demolish said building in accordance with the terms of the notice and this ordinance;

The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;

The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done, provided that any person notified under this subsection to repair, vacate or demolish any building, shall be given such reasonable time not exceeding thirty (30) days to commence the required work;

The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in the above subsection;

Report in writing to the city building commissioner the noncompliance with any notice to vacate, repair or demolish or upon the failure to proceed continuously with the work without unnecessary delay;

Appear at all hearings conducted by the building commissioner and testify as to the condition of dangerous buildings.

Immediately report to the building commissioner concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The building commissioner may direct that such building be marked or posted with a written notice reading substantially as follows:

“This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of his building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Ray County. It is unlawful to remove this notice until such notice is complied with.”

Provided, however, that the order by the building commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this ordinance to the notice and hearing prescribed herein.

Section 7. Building Commissioner.

The mayor shall act as building commissioner under this ordinance.

Section 8. Duties of the building commissioner.

The building commissioner shall have the power pursuant to this ordinance to:

Supervise all inspections required by this ordinance, and cause the building inspector to make inspections and perform all the duties required of him by this ordinance. Upon receiving a complaint or report from any source, that a dangerous building exists in the city, the building commissioner shall cause an inspection to be made forthwith. If the building commissioner deems it necessary to the performance of his duties and responsibilities imposed herein, the building commissioner may request an inspection and report be made by any other city department or retain services of an expert whenever the building commissioner deems such service necessary.

Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this ordinance or upon failure to proceed continuously with work without unnecessary delay, the building commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the building commissioner 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 or demolished in accordance with the statement of particulars set forth in the building inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

Make written findings of fact from the evidence offered at said hearing s to whether or not the building in question is a dangerous building within the terms of Section 2.

If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the building commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City of Wood Heights or the owner or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the City of Wood Heights of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the building commissioner shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant; and the building commissioner shall certify the cost of the work borne by the City of Wood Heights for such repair, vacation or demolition to the Wood Heights City Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s). Except as provided in subsection 6 of this section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of 18 percent per annum until paid.

As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the building commissioner as provided in subsection 5 of this section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to **twenty five (25) percent** of the insurance proceeds, as set forth in subdivisions a and b of this subsection. This subsection shall apply only to a covered claim payment that is in excess of fifty (50) percent of the face value of the policy covering a building or other structure:

The insurer shall withhold from the covered claim payment up to ten (10) percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.

The City of Wood Heights shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (a) of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the City of Wood Heights has instituted legal proceedings under the provisions or subsection (5) of this section. If the City of Wood Heights has proceeded under the provisions of subsection (5) of this section, all moneys in excess of that necessary to comply with the provisions of subsection (5) of this section for the removal of the building or structure, less salvage value, shall be paid to the insured.

If there are no proceeds of any insurance policy as set forth in subsection (6) of this section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.

Subsection (6) of this section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

Subsection (6) of this section does not make the City of Wood Heights a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

The building commissioner may certify in lieu of payment of all or part of the covered claim under subsection (6) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the building commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection (6) of this section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this subsection.

Section 9. Appeal.

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the receipt of the order of the building commissioner, appeal such decision to the circuit court of the county wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

Section 10. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished, the building inspector shall report such facts to the building commissioner and the building commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 7(5).

Section 11. Violations: disregarding notices or orders.

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 12.

Any person removing any notices provided for in this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with section 12.

Section 12. Penalties.

Any person violating the provisions of this ordinance is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the building commissioner may be deemed a separate offense.

Section 13. This ordinance shall be in full force and effect from its date of passage.

Read two times and passed by the Board of Aldermen of the City of Wood Heights, Missouri this
18th of November 2008



John D. Allen, Mayor

ATTEST:



Eileen McRorey, City Clerk

Missouri Revised Statutes

Chapter 67 **Political Subdivisions, Miscellaneous Powers** **Section 67.410**

August 28, 2008

Provisions required in ordinance.

67.410. 1. Except as provided in subsection 3 of this section, any ordinance enacted pursuant to section 67.400 shall:

- (1) Set forth those conditions detrimental to the health, safety or welfare of the residents of the city, town, village, or county the existence of which constitutes a nuisance;
- (2) Provide for duties of inspectors with regard to such buildings or structures and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such buildings or structures;
- (3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the property is to be vacated, if such be the case, reconditioned or removed, listing a reasonable time for commencement; and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure as shown by the land records of the recorder of deeds of the county wherein the land is located shall be made parties;
- (4) Provide that upon failure to commence work of reconditioning or demolition within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if the evidence supports a finding that the building or structure is a nuisance or detrimental to the health, safety, or welfare of the residents of the city, town, village, or county, the building commissioner or designated officer or officers shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the building or structure to be a nuisance and detrimental to the health, safety, or welfare of the residents of the city, town, village, or county and ordering the building or structure to be demolished and removed, or repaired. If the evidence does not support a finding that the building or structure is a nuisance or detrimental to the health, safety, or welfare of the residents of the city, town, village, or county, no order shall be issued;
- (5) Provide that if the building commissioner or other designated officer or officers issue an order whereby the building or structure is demolished, secured, or repaired, or the property is cleaned up, the cost of performance shall be certified to the city clerk or officer in charge of finance, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the city collector or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the city, town, village, or county and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in sections 429.010 to 429.360, RSMo. Except as provided in subsection 3 of this section, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten years. The tax bill from date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid. A city not within a

county or a city with a population of at least four hundred thousand located in more than one county, notwithstanding any charter provision to the contrary, may, by ordinance, provide that upon determination by the city that a public benefit will be gained the city may discharge the special tax bill, including the costs of tax collection, accrued interest and attorneys fees, if any.

2. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, the ordinance may establish a procedure for the payment of up to twenty-five percent of the insurance proceeds, as set forth in this subsection. The order or ordinance shall apply only to a covered claim payment which is in excess of fifty percent of the face value of the policy covering a building or other structure:

(1) The insurer shall withhold from the covered claim payment up to twenty-five percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the order or ordinance;

(2) The city or county shall release the proceeds and any interest which has accrued on such proceeds received under subdivision (1) of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty days after receipt of such insurance moneys, unless the city or county has instituted legal proceedings under the provisions of subdivision (5) of subsection 1 of this section. If the city or county has proceeded under the provisions of subdivision (5) of subsection 1 of this section, all moneys in excess of that necessary to comply with the provisions of subdivision (5) of subsection 1 of this section for the removal, securing, repair and cleanup of the building or structure, and the lot on which it is located, less salvage value, shall be paid to the insured;

(3) If there are no proceeds of any insurance policy as set forth in this subsection, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten years. The tax bill from date of its issuance shall be a lien on the property until paid;

(4) This subsection shall apply to fire, explosion, or other casualty loss claims arising on all buildings and structures;

(5) This subsection does not make the city or county a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

3. The governing body of any city not within a county and the governing body of any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county may enact their own ordinances pursuant to section 67.400 and are exempt from subsections 1 and 2 of this section.

4. Notwithstanding the provisions of section 82.300, RSMo, any city may prescribe and enforce and collect fines and penalties for a breach of any ordinance enacted pursuant to section 67.400 or this section and to punish the violation of such ordinance by a fine or imprisonment, or by both fine and imprisonment. Such fine may not exceed one thousand dollars, unless the owner of the property is not also a resident of the property, then such fine may not exceed two thousand dollars.

5. The ordinance may also provide that a city not within a county or a city with a population of at least three hundred fifty thousand located in more than one county may seek to recover the cost of demolition prior to the occurrence of demolition, as described in this subsection. The ordinance may provide that if the building commissioner or other designated officer or officers issue an order whereby the building or structure is ordered to be demolished, secured or repaired, and the owner has been given an opportunity for a hearing to contest such order, then the building commissioner or other designated officer or officers may solicit no less than two independent bids for such demolition work. The amount of the lowest bid, including offset for salvage value, if any, plus reasonable anticipated costs of collection, including attorney's fees, shall be certified to the city clerk or officer in charge of finance, who shall cause a special tax bill to be issued against the property owner to be prepared and collected by the city collector or other official collecting taxes. The municipal clerk or other officer in charge of finance shall discharge the special tax bill upon documentation by the property owner of the

completion of the ordered repair or demolition work. Upon determination by the municipal clerk or other officer in charge of finance that a public benefit is secured prior to payment of the special tax bill, the municipal clerk or other officer in charge of finance may discharge the special tax bill upon the transfer of the property. The payment of the special tax bill shall be held in an interest-bearing account. Upon full payment of the special tax bill, the building commissioner or other designated officer or officers shall, within one hundred twenty days thereafter, cause the ordered work to be completed, and certify the actual cost thereof, including the cost of tax bill collection and attorney's fees, to the city clerk or other officer in charge of finance who shall, if the actual cost differs from the paid amount by greater than two percent of the paid amount, refund the excess payment, if any, to the payor, or if the actual amount is greater, cause a special tax bill or assessment for the difference against the property to be prepared and collected by the city collector or other official collecting taxes. If the building commissioner or other designated officer or officers shall not, within one hundred twenty days after full payment, cause the ordered work to be completed, then the full amount of the payment, plus interest, shall be repaid to the payor. Except as provided in subsection 2 of this section, at the request of the taxpayer the tax bill for the difference may be paid in installments over a period of not more than ten years. The tax bill for the difference from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

(L. 1969 H.B. 60 § 2, A.L. 1984 S.B. 433, A.L. 1990 H.B. 1062, A.L. 1994 H.B. 1115, S.B. 513, A.L. 1995 H.B. 383, A.L. 2000 H.B. 1238)

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Missouri General Assembly