

**CODIFIED LAW #20**  
**TOWN OF MISSION HILL**

***DANGEROUS OR ABANDONED BUILDINGS***

BE IT ORDAINED by the President and Board of Trustees of Mission Hill, SD:

**Section I.** Definitions.

For the purpose 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 immediate life, health, or safety of the public or its occupants are 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 arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the building official or duly authorized party 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, dilapidation condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive or heating apparatus, or other causes, is determined by the building inspector or duly authorized party 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 3 (three) months so as to constitute such building or portion thereof, a nuisance or hazard to the public.

**Section II.** Enforcement.

- A. *Administration:* The building inspector or duly authorized party is hereby authorized to enforce the provisions of this article.

- B. *Commencement or Proceedings*: Whenever the building inspector or duly authorized party 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 inspector or duly authorized party shall confer with the Town Board members at a duly called meeting the Board before proceeding and then upon authorization issue a notice and order directed to the record owner of the building. The notice and order shall contain:
  - 1. The street address and legal description sufficient for identification of the premises upon which the building is located.
  - 2. A statement that the building inspector or duly authorized party 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 inspector or duly authorized party to the Town Board. The appeal must be made in writing as provided in this article, and filed with the Finance Officer with 10 (ten) 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.

**Section III. Action Required:**

The following action shall be taken as determined by the building inspector or duly authorized party upon consultation and authorization of the Town Board as provided in Section II:

- A. If the building inspector or duly authorized party 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 30 (thirty) days from the date of the order, and to be completed within 120 (one hundred and twenty) days from the date of the order, or at a different time interval granted upon request by the Town Board.
- B. If the building inspector or duly authorized party has determined that the building or structure must be vacated, a notice will be posted on the building or structure indicating that the building or structure has been determined to be dangerous and is to be evacuated, and the order shall require that the building or structure shall be vacated within 45 (forty-five) days from the date of the order.
- C. If the building inspector or duly authorized party has determined that the building or structure must be demolished, a notice will be posted on the building or structure indicating that the building or structure has been determined to be dangerous and is to be evacuated, if necessary, and demolished, and the order shall require that the building be vacated (if necessary) and all permits secured within 45 (forty-five) days from the date of the order, and that the demolition be completed within 60 (sixty) days from the date of the order. Completed demolition shall include filling of open basements as soon as exposed.

**Section IV.**

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.

#### **Section V.**

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, return receipt requested, to the property owner. If no address of any such person so appears or is known to the building inspector or duly authorized party, a copy of the notice and order shall be published 2 (two) consecutive times in the legal newspaper.

#### **Section VI.**

Standards to be followed in repair, vacation, and demolition.

Standards to be followed in repair, vacation, and demolition shall be followed by the building inspector or duly authorized party 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.

#### **Section VII.**

- A. 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 Town Board.
- B. Any person may appeal from any notice and order or any action of the building inspector or duly authorized party under this article by filing at the office of the Finance Officer within 10 (ten) 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 inspector or duly authorized party shall present it at the next regular meeting of the Town Board.
- D. Scheduling and Noticing Appeal for Hearing: As soon as practicable after receiving the written appeal the Town Board 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 10 (ten) 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 inspector or duly authorized party issued under this article shall be stayed during the pending of an appeal therefrom which is properly and timely filed.

**Section VIII.** Enforcement of the Order by the Building Inspector or Duly Authorized Party of the Town Board.

- A. Failure to commence work: Whenever the required repair or demolition is not commenced within 30 (thirty) days after a final notice or order issued under this article becomes effective:
  - 1. The building inspector or duly authorized party shall declare the described as dangerous and order it to be vacated by posting at each entrance thereof 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 inspector or duly authorized party have 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 Town, 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 inspector or duly authorized party or Town Board 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 Town Board may cause such person to be prosecuted for violation of this article.
- D. Violations: Each day a violation occurs will be considered a separate violation.

**Section IX.** Penalties.

Penalties for a violation of this ordinance shall subject the owner to the following penalties:

- A. Any person violating any of the provisions of this ordinance shall incur a fine in a sum of not to exceed \$200.00 (two hundred dollars) per day, starting:
  - 1. In the event that repairs are necessary, 30 (thirty) days after a final notice and order has been issued.
  - 2. In the event that demolition is necessary, 45 (forty-five) days after a final notice and order has been issued.
- B. After 5 (five) consecutive days of violation, the Town Board may seek a court order to proceed with the repair or demolition of the building or structures in violation of the ordinance. The costs of the repair or demolition work authorized by the Town Board shall be assessed to the legal owner or owners of the property and this cost, plus the total of all fines and legal costs incurred, shall be subject to a 2 (two) percent per month carrying charge.
- C. In the event the owner or owners fail to pay the fines and/or costs incurred in repair or demolition, plus interest, after 180 (one hundred and eighty) days of the date of the first fine, the Town Board may seek a court order to seize the property and sell said property at public auction for no less than the total of the fine(s), cost(s), and interest at the time of the sale.

- D. In the event that the total of the fine(s), cost(s), and interest equals or exceeds the assessed value of the property before 180 (one hundred and eighty) days of the date of the first fine, the Town Board may seek a court order to seize the property and sell said property at public auction for no less than the total of the fine(s), cost(s), and interest at the time of sale.
- E. In the event the highest bid received at auction under the paragraphs C. and D. does not equal or exceed the total sum of the fine(s), cost(s), and interest, the property shall revert to the Town.

**Section X. Severability.**

This ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Scott Vanburen  
Town Board President

LeAnne J. Cutts  
Finance Officer

BOARD REVIEWED 8-12-15  
**ORDINANCE #90**