

AN ORDINANCE DEFINING DANGEROUS BUILDING, DECLARING DANGEROUS BUILDINGS TO BE A NUISANCE, REQUIRING REPAIR, VACATION OR DEMOLITION AND THE PROCEDURE AND NOTICE NECESSARY TO EFFECTUATE IMPLEMENTATION OF A DANGEROUS BUILDING ORDINANCE WITHIN THE CORPORATE LIMITS OF THE CITY OF ARCADIA, MISSOURI,

BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF ARCADIA, MISSOURI, as follows:

SECTION 1. PURPOSE OF THE ORDINANCE.

It is the purpose of the provisions of this ordinance to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures which may endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, and shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter be constructed in the city.

SECTION 2. DANGEROUS BUILDINGS DEFINED.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three (33) per cent or more of damage or deterioration of the supporting member, or members or fifty (50) per cent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs, in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other cause so as to become dangerous to life, safety, morals or the general health and welfare of the occupants, or the people of the city.
- (e) Those which are so dilapidated, decayed, unsafe, unsanitary or which 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, morals, safety or general welfare of those occupying such building.

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

(g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

(h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(i) Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety, morals or general welfare of the people of this city.

SECTION 3. DANGEROUS BUILDINGS DECLARED NUISANACE.

All "dangerous buildings" within the terms of section 2 are hereby declared to be public nuisances, and shall be repaired, vacated and repaired, or vacated and demolished as hereinbefore and hereinafter provided.

SECTION 4. EMERGENCIES.

In case 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 and repaired, or vacated and demolished, the Building Commissioner shall cause the immediate repair, vacation or demolition of such dangerous buildings. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in subsection (f) of section 9 hereof.

SECTION 5. STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation or demolition:

(a) If the dangerous building can reasonably be repaired so that it will no longer be in violation of the terms of this article, it shall be ordered repaired.

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

(c) In any case where a dangerous building is fifty (50) per cent damaged, decayed or deteriorated, it shall be repaired or demolished. In all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this article, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of the article or any ordinance of this city or statute of the state, it shall be repaired or demolished.

SECTION 6. BUILDING INSPECTORS – DUTY TO REPORT

All Arcadia City Police Officers and all other Arcadia City employees so designated by the Board of Aldermen shall be Building Inspectors within the meaning of this Ordinance.

It shall be the duty of all city employees to make a report, in writing, to the Building Commission, of all buildings or structures which they believe, or may be or are suspected to be dangerous buildings within the terms of this article. Such reports are to be made within a reasonable time after the discovery of such buildings or structures.

SECTION 7. DUTIES OF BUILDING INSPECTORS – PROCEDURE AND NOTICE

The Building Inspectors shall have the duty under this Ordinance to:

- (a) 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 any conditions exist which render such places a dangerous building within the terms of section 2.
- (b) 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 article.
- (c) Inspect any building, wall or structure reported by the fire or police departments of this city as probably existing in violation of this article.
- (d) Notify in writing, either by personal service or by certified mail, return receipt requested, or by publication in the local newspaper for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building as shown by the land records of the recorder of deeds of Iron County, of any building found by him to be a dangerous building within the standards set forth in section 2, that:

- (1) The owner/occupant must vacate, vacate and repair, or vacate and demolish the building in accordance with the terms of the notice and this article;
- (2) The occupant or lessee must vacate the building, or have it repaired in accordance with the notice, and remain in possession;
- (3) The mortgagee, agent or other persons having an interest in the building as shown by the land records of the recorder of deeds of Iron County, 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 and repair, or vacate and demolish any building shall be given such reasonable time, not exceeding thirty (30) days unless in the judgment of the Building Commissioner it is determined to be necessary to extend such time to do so or have the work or act required by the notice provided herein. The Building Commissioner shall specify in writing an additional notice of the date to which the extension is made.

(e) Set forth in the notice provided for in subsection (d) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this article within the time, or extension thereof, provided for in the above subsection (d).

(f) Report to the Building Commissioner any noncompliance with the notice provided for in subsections (d) and (e) of this section.

(g) Appear at all hearings conducted by the Building Commissioner and testify as to the condition of dangerous buildings.

(h) If the inspector completes inspection of a building and finds it to be inherently dangerous and, in his opinion, that it constitutes a nuisance per se, upon approval of such finds ex parte by the Building Commissioner, he shall place a notice on such building forthwith reading as follows:

This building has been found to be a dangerous building by the Building Commissioner. This notice is to remain on this building until it is repaired, vacated and repaired, or vacated and demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having any interest in said building as shown by the land records of the recorder of deeds of Iron County. It is unlawful to remove this notice until such notice is complied with.

Provided, however, the approval of the Building Commissioner and the posting of the notice shall not be construed to deprive persons entitled thereto by this article to the notice and hearing prescribed herein.

SECTION 8. BUILDING COMMISSIONER

The Board of Aldermen shall act as Building Commissioner under this Ordinance.

SECTION 9. BUILDING COMMISSIONER - DUTIES

The Building Commissioner shall:

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

(b) Upon receipt of a report of the inspector as provided for in subsection (f) of section 7, give written notice either by personal service or by certified mail, return receipt requested, or by publication in the local newspaper for two (2) successive weeks, at least twenty-one (21) days in advance, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building as shown by the land records of the recorder of deeds of Iron County, to appear before him on the date specified in the notice to show cause why the building should not be repaired, vacated and repaired, or vacated and demolished in accordance with the statement of particulars set forth in the inspector's notice provided for herein and subsection (f) of section 7.

(c) Hold a hearing and hear such testimony as the inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in the building, as shown by the land records of the recorder of deeds of Iron County, shall offer relative to the dangerous buildings.

(d) Make written findings of the fact from the testimony offered pursuant to subsection (c) of this section as to whether or not the building in question is a dangerous building within the terms of section 2.

(e) Issue an order, based upon findings of fact made pursuant to subsection (e) of this section, commanding the owner, occupant, mortgagee, lessee, agent or other persons having an interest in the

building, as shown by the land records of Iron County, to repair, vacate and repair, or vacate and demolish any building found to be a dangerous building within the terms of this section; and provided, that any person so notified shall have the privilege of either repairing, or vacating and repairing the building, if such repair will comply with the ordinances of this city, or the owner or any person having an interest in the building as shown by the land records of the county may vacate and demolish the dangerous building at his own risk to prevent the acquiring by this city of the lien against the land where the dangerous building stands as provided by subsection (f) of this section.

(f) If the owner, occupant, mortgagee or lessee fails to comply with the order or extension thereof provided for in subsection (e) of this section, within thirty (30) days, the Building Commissioner shall cause such building or structure to be repaired, vacated and repaired, or vacated and demolished as the facts may warrant, under the standards provided in section 10; and the Building Commissioner shall certify the charge for such repair, vacation or demolition to the director of finance as a special assessment represented by a special tax bill which shall be a lien upon the property and be enforced to the same extent and in the same manner as other special tax bills. 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; the assessment shall bear interest at the rate of eight (8) percent per annum until paid.

SECTION 10. INSURANCE PROCEEDS FROM DAMAGE OR LOSS TO BUILDINGS OR STRUCTURES.

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, and if the covered claim payment is in excess of fifty (50) per cent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

(a) The insurer shall withhold from the covered claim payment twenty-five (25) per cent of the covered claim payment and shall pay that amount to the city to deposit into an interest bearing account. Any named mortgage on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the city for the expenses of demolition of such building as a dangerous building, the moneys held by the city shall be applied toward payment of a special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as the terms of the policy, including any endorsements thereto, provide.

(b) The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (a) of this section 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 has instituted legal proceedings under the provisions of section 4, 7 or 9. If the city has proceeded under the provisions of section 4, 7 or 9, all moneys in excess of that necessary to comply with the provisions of section 4, 7 or 9 for the removal of the building or structure, less salvage value, shall be paid to the insured.

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

(d) No provision of this section shall be construed to make the city a party to any insurance contract.

SECTION 11. SERVICE OF NOTICE

In cases except emergency cases, all notices or orders provided for herein shall be personally served or sent by certified mail, return receipt requested, to the owner, occupant, mortgagee, lessee and all other persons having an interest in the building as shown by the land records of the recorder of deeds of Iron County; and a copy of such notice shall be posted in a conspicuous place upon the dangerous building to which it relates. In the event service may not be had by either of these modes, then such notice or order provided herein shall be published in the local newspaper for two (2) successive weeks.

SECTION 12. APPEAL

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building, as shown by the land records of the recorder of deeds of Iron County, may, within thirty (30) days from the receipt of the order of the Building Commissioner, appeal such decision to the circuit court of Iron County, pursuant to the procedure established in RSMo ch. 536 of the Revised Statutes of Missouri.

SECTION 13. VIOLATIONS.

The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish the building given by any person authorized by this article to give such notice or order, shall be guilty of a misdemeanor and shall be punishable as set forth in section 13. Each day in which such violation shall continue shall be deemed a separate offense.

The occupant or lessee in possession, who fails to comply with any notice to vacate and anyone having an interest in the building as shown by the recorder of deeds of Iron County and under a legal duty to repair, who fails to repair the building in accordance with any notice given as provided for by this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as set forth in section 13. Each day in which such violation shall continue shall be deemed a separate offense.

Any person removing any notices provided for in this article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with section 13.

SECTION 14. PENALTIES.

Any person found guilty of any offense in section 13 shall, upon conviction, be fined not more the five hundred dollars (\$500.00).

SECTION 15. CONFLICTING ORDINANCES.

Any and all ordinances or parts of ordinances in conflict herewith, shall be, and the same are hereby repealed; and this ordinance shall be in full force and effect from and after its passage and approval.

WHEREUPON, this Ordinance was read three times and approved by vote of the Board of Aldermen of the City of Arcadia, Missouri, on this 14th day of March, 2005.

Attest:

Mary Johnson
Mary Johnson, City Clerk

Roy Carr
Roy Carr, Mayor