

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: January 10, 2023
SUBJECT: Nuisance and or Dangerous Buildings	ITEM NO: 5.2.2

BACKGROUND:

Discussion of enforcement and compliance options for abandoned and dangerous buildings.

See the Attached Chapter 15 Regarding Dangerous Buildings

FISCAL IMPACT:

None

RECOMMENDATION:

Discussion Item Only

SUBMITTED BY:



June Hinojosa, City Recorder

Chapter 15.08

DANGEROUS BUILDINGS

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Ordinance History: #1339, 1357

15.08.010 Short title.

This chapter shall be known as the "dangerous building ordinance" of the city.

15.08.020 Definitions.

For the purposes of this chapter, 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 includes the masculine. "And" indicates that all connected items or provisions apply. "Or" indicates that the connected items or provisions may apply singly or in combination. Terms, words, phrases and their derivatives used, but not specifically defined in this chapter, shall have the meanings commonly accepted in the community.

"Accessory structure" means any structure not intended for human occupancy which is located on residential property. Accessory structures may be attached to or detached from the residential structure. Examples of accessory structures include: garages, carports, sheds, and other non-dwelling buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs and walkways, and other exterior structures on the property.

"Building" means any structure used or intended to be used for supporting or sheltering any use or occupancy.

"Building official" means the city manager of the city of Bandon or the city manager's designee.

"City official" means and includes any city councilor, mayor, city employee, or any agency or employee of any agency under contract to the city for services.

"Dangerous building" means any building or structure or portion thereof determined by the building official or the board of appeals, on the basis of criteria specified in Section 15.08.100, to endanger the life, health, property or safety of the public or its occupants.

"Owner" means the owner of title to the real property, or the contract purchaser, as shown on the last complete assessment roll in the office of the county assessor.

"Person" means a natural person, firm, partnership, association or corporation.

"Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

"Unsecured" means any building or structure in which doors, windows or apertures are open or broken so as to allow access.

15.08.030 Compliance required.

It is 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.

15.08.040 Administrative authority.

- A. The city building official is the primary agent authorized to administer and enforce the provisions of this chapter.
- B. Whenever an appointed or elected officer of the city shall be of the opinion that there is a dangerous building in the city, it shall be the duty of such officer to report the same to the building official, who shall cause an investigation to be initiated.
- C. In accordance with approved procedures, the building official may employ qualified officers, inspectors, assistants and other employees as shall be necessary to carry out the provisions of this chapter.
- D. The authority of the building official to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of any other ordinance of the city.

15.08.050 Buildings and construction subject to inspection.

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 in accordance with and in the manner provided by this chapter, in addition to any other inspection required by law.

15.08.060 Nuisance declared.

All buildings or accessory structures or portions thereof which are determined after inspection by the building official to be dangerous as defined in this chapter are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this chapter.

15.08.070 Enforcement authority.

The city building official, the fire marshal, or their authorized representative is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

15.08.080 Coordination of enforcement.

Wherever possible, inspections made by personnel of the building department or fire department shall be coordinated in order to avoid the issuance of multiple or conflicting orders.)

15.08.090 Right of entry.

Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official or his or her authorized representative has reasonable cause to believe there exists in any building or upon any premises any condition that would make such building or premises a dangerous building as defined herein, or upon presentation of a lawfully issued warrant, then the building official or his or her authorized representatives may enter into such building at reasonable times to inspect the premises or to enforce any provisions of this chapter, provided that:

- A. Occupied Property. If the property is occupied, the building official shall first present proper credentials and demand entry. If entry is refused, the building official may attempt to secure entry by any legal means;
- B. Unoccupied Property. If the property is unoccupied, the building official shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property and demand entry. If entry is refused, the building official may attempt to secure entry by any legal means; or
- C. Open, Unoccupied Property. If the property is unoccupied and open, the building official or an authorized representative may enter to determine if a hazardous condition exists. If a hazardous condition exists, the building official shall notify the owner of the condition and order the dwelling immediately secured against the entry of unauthorized persons;
- D. Inspection Warrant. When the building inspector or his or her authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant, or any other person having charge, care or control of any building or premises, shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building inspector or his or her authorized representative for the purpose of inspection and examination pursuant to this chapter.

15.08.100 Dangerous conditions or defects.

For the purposes of this chapter, any building or structure which has any or all of the conditions or defects described below shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

- A. 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;
- B. 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;
- C. 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 State Building Code for new buildings or similar structure, purpose or location;
- D. Whenever any building or 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 Uniform Building Code for new buildings of similar structure, purpose or location;
- E. 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;
- F. 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 to as to be capable of resisting a wind pressure of one-half of that specified in the Uniform Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Uniform Building Code for such buildings;
- G. 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;
- H. Whenever the building or structure, or any portion thereof, because of: (1) dilapidation, deterioration or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse;
- I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used;
- J. 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;
- K. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;
- L. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become: (1) so dilapidated or deteriorated as to become an attractive nuisance to children; (2) a harbor for vagrants or criminals; or (3) as to enable persons to resort thereto for the purpose of committing unlawful acts;
- M. 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, as specified in the Uniform Building Code or of any law or ordinance of this state or city relating to the condition, location or structure of buildings;

- N. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent of the (1) strength; (2) fire-resisting qualities or characteristics; or (3) 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;
- O. 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;
- P. 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 chief or building official to be a fire hazard;
- Q. Whenever any portion of a building or structure remains on a site after 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;
- R. A structure that, for lack of proper repairs, or because of age and dilapidated condition or poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus, or for any other reason, is liable to cause fire, and which is situated or occupied in a manner that endangers other property or human life;
- S. A structure containing any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises or to human life;
- T. A structure that is in a filthy or unsanitary condition liable to cause the spread of contagious or infectious diseases;
- U. A structure in such weak, dilapidated or deteriorated condition that it endangers a person or property because of the probability of partial or entire collapse.

15.08.110 Structures unfit for human habitation.

- A. Whenever the building official finds that any structure is in such a state of disrepair or is unsanitary, vermin or rodent-infested, that it lacks sanitary facilities or equipment in good working order, or otherwise fails to comply with the minimum requirements of the building code, yet is not a dangerous structure as defined in Section 15.08.020, in addition to serving a notice of violation, the building official may declare the structure as unfit for human habitation and order it vacated if not repaired within a specified time.
- B. If the building official orders a structure vacated, the building official shall cause to be posted a copy of the order to vacate on or near the main entrance and cause the order to be served on the owner. The notice to the owner shall be done in any manner reasonably calculated to apprise the owner of the existence of the order

- to vacate.
- C. Tenants shall be considered notified when notices are posted on or at every dwelling unit entry door.
 - D. The building official may act to prevent the future occupancy of a vacated, substandard structure or portion of such a structure by posting a notice, by barricading, or by other means calculated to prevent re-occupancy. Failure by the owner to correct the substandard conditions within the prescribed time may result in abatement under procedures for abating general nuisances.
 - E. It is unlawful for any person other than the building official to remove or cause to be removed any posted order, notice or barricade. Failure to comply with orders to vacate and/or repair shall be a violation of this chapter.

15.08.120 Notices and orders of building official.

- A. Commencement of Proceedings. Whenever the building official has found and determined through inspection that a building is a dangerous building, he or she shall commence proceedings to cause the repair, vacation or demolition of the building.
- B. Notice and Order. The building official shall issue a notice and order directed to the owner of the building. The notice and order shall contain:
 - 1. The street address and a legal description sufficient for identification of the premises upon which the building is located;
 - 2. 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 Section 15.08.100;
 - 3. A statement of the action required to be taken as determined by the building official:
 - a. Repair. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the building official shall determine is reasonable under all the circumstances.
 - b. Vacate. If the building official has determined that the building or structure 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.
 - c. Demolish. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed sixty (60) days from the date of the order), that all required permits be secured therefor within sixty (60) days from the date of the order, and that the demolition be completed within such time as the building official shall determine is reasonable;
 - 4. A 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 will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the cost thereof against the property or its

owner;

5. A statement advising that: (a) 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 board of appeals, provided the appeal is made in writing as provided in this chapter and filed with the city recorder within thirty (30) days from the date of service of such notice and order; and (b) failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
- C. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and 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 on him or her by the provisions of this section.
- D. 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, return receipt requested, to each person at his or her address as it appears on the last assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so 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.
- E. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by 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 and retained by the city recorder.
- F. Recording of Notice and Order. If compliance with the order does not occur within the time specified therein and no appeal has been properly and timely filed, the building official shall file in the office of the county clerk a certificate describing the property and certifying that the building is a dangerous building and that the owner has been so notified. Whenever the corrections so ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county clerk certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

15.08.130 Repair, vacation and demolition.

The following standards shall be followed by the building official (and by the board of appeals if an appeal is made) in ordering the repair, vacation or demolition of any dangerous building or structure:

- A. Any building declared a dangerous building under this chapter either shall 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.

15.08.140 Notice to vacate.

- A. Posting. Every notice to vacate shall, in addition to being served as provided in Section 15.08.120(D), be posted at or upon each exit of the building and shall be substantially in the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

Any person occupying this building or removing or
defacing this notice shall pay a fine not exceeding \$500.00.

Building Official
City of Bandon, Oregon

- B. Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued by him or her under Section 15.08.120(C), reciting the emergency and specifying the conditions which necessitate the posting. 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. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy has been issued by the city or the Oregon Department of Commerce.

15.08.150 Summary abatement.

The procedures for abatement as set out herein need not be followed if the condition of the building is so unmistakably dangerous that it poses an imminent threat to life or property. In such instance, the building official or fire chief may summarily abate the nuisance by whatever reasonable means necessary to eliminate the danger. The cost of the work shall be assessed pursuant to Section 15.08.340 using the procedures established by Sections 15.08.280 through 15.08.390.

15.08.160 Board of appeals.

In order to provide for final interpretation of the provisions of this chapter and to hear appeals as provided in this chapter, there is established a board of appeals consisting of seven members. The city recorder shall act as secretary to said board. The board of appeals shall be appointed by the city council and shall hold office at the pleasure of the council. The council may appoint itself to act in the capacity of the board of appeals. The board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing. Appeals to the board shall be processed in accordance with the provisions contained in Section 15.08.170.

15.08.170 Appeal.

- A. Form of Appeal. Any person entitled to service under Section 15.08.120 may

appeal from any notice and order or any action of the building official under this chapter by filing with the city recorder a written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the City of Bandon, Oregon;"
 2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;
 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;
 4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
 5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
 6. The signatures of all parties named as appellants and their official mailing addresses;
 7. 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. Filing of Appeal. The appeal shall be filed with the city recorder within thirty (30) days from the date of the service of such order or action of the building official.
- C. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the city recorder shall present it at the next regular meeting of the city council.
- D. Scheduling Appeal for Hearing. As soon as practicable after receiving the written appeal, the city council shall fix a date, time and place for the hearing of the appeal by the board of appeals. The hearing date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the city recorder. Written notice shall be given at least ten (10) days prior to the date of the hearing to each appellant by the city recorder 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(s) at the address(es) shown on the appeal.
- E. Appointment of Board of Appeals. Following receipt of a written appeal, a board of appeals shall be appointed for the purpose of hearing the appeal in accordance with Section 15.08.160.

15.08.180 Effect of failure to appeal.

Failure of any person to file an appeal in accordance with the provisions of Section

15.08.170 shall constitute a waiver of his or her right to an administrative hearing and adjudication of the notice and order or any portion thereof.

15.08.190 Scope of hearing on appeal.

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

15.08.200 Staying of order under appeal.

Except for vacation orders made pursuant to Section 15.08.130(B), 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.

15.08.210 Conduct of board of appeals.

- A. Hearings Officer. The board may appoint one of its members to serve as hearings officer to conduct the hearings. The hearings officer shall exercise all powers relating to the conduct of hearings until it is submitted by him or her to the board for a decision.
- B. 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 board. The proceedings at the hearing may be reported by stenographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the actual cost thereof. The board may require a party requesting a transcript to pay a deposit to the city in an amount of the estimated cost of producing a transcript, and may refuse to order a transcript be produced until such deposit is paid.
- C. Continuances. The board or hearings officer may grant continuances for good cause shown.
- D. Oaths--Certification. In any proceedings under this chapter, the board, any board member, the city recorder, or the hearings officer has the power to administer oaths and affirmations and to certify to official acts.
- E. Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

15.08.220 Form of notice of hearing.

The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Appeals of the City of Bandon on the _____ day of _____, 20____, at the hour of _____, in the Council Chambers at City Hall, 555 Highway 101, Bandon, Oregon, regarding the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of documents or other things by filing a written request therefor with the Board of Appeals.

15.08.230 Conduct of hearings.

- A. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- B. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.
- C. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in the courts of this state.
- D. Admissibility of Evidence. 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 the courts of this state.
- E. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.
- F. Rights of Parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him or her to testify;
5. To rebut the evidence against him or her;
6. To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.

G. Official Notice.

1. What May be Noticed. 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 noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.
2. Parties to be Notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
3. Opportunity to Refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearings officer.

H. All matters before the board or a hearings officer, including the deliberation process, shall be heard in public session under the provisions of Oregon's Open Meetings Law.

I. Inspection of the Premises. The board may inspect any building involved in the appeal during the course of the hearing, provided that (1) notice of such inspection shall be given to the parties before the inspection is made; (2) the parties are given an opportunity to be present during the inspection; and (3) the board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board.

15.08.240 Method and form of decision.

- A. Hearing before Board Itself. When a contested case is heard, any member of the board who did not hear the evidence shall not vote on or take part in the decision.
- B. Voting. A quorum of the board shall have authority to act and make any decision on any issue. A vote by the majority of the members of the board who are present and participating in the decision shall be sufficient to decide any issue in question. Any decision shall be based upon a preponderance of evidence.
- C. Form of Decision. The final decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested. Decisions on preliminary matters may be made by oral vote in public session.
- D. Effective Date of Decision. The effective date of the decision shall be as stated therein.

15.08.250 Enforcement of the order of the building official or the board of appeals.

- A. Compliance. After any order of the building official or the board of appeals made pursuant to this chapter shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Upon a finding of noncompliance with any order, the board of appeals may impose a penalty for each day's noncompliance in an amount not to exceed one hundred twenty-five dollars (\$125.00). Each subsequent day shall be considered a separate violation subject to penalty.
- B. Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (1) cause such person to be fined under subsection A of this section; or (2) institute any appropriate action to abate such building as a public nuisance.
- C. Failure to Commence Work. Whenever the required repair or demolition is not commenced within thirty (30) days after any final notice and order issued under this chapter becomes effective, 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 Any person occupying this building or removing or
defacing this notice shall pay a fine not exceeding \$500.00.
Building Official
City of Bandon, Oregon

1. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued by the city or the Department of Commerce of the state of Oregon.
2. Penalty. Violation of the provisions contained in subsection (C)(1) of this section shall be punishable upon conviction by a fine not exceeding five hundred dollars (\$500.00).
3. The building official may, in addition to any other remedy provided in this chapter, 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 removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost paid and recovered in the manner provided in this chapter. Any surplus realized from the sale of the building, or from its demolition, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled to it.

15.08.260 Extension of time to perform work.

Upon receipt of an application from the person required to conform to the order and an agreement by such person that he or her will comply with the order if allowed additional time, the building official may, in his or her discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete the repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or

perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal his or her notice and order.

15.08.270 Interference with repair or demolition work prohibited.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this 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 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 this jurisdiction, 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 authorized or directed pursuant to this chapter.

15.08.280 Performance of work of repair or demolition by the city.

- A. General Procedure. When any work of repair or demolition is to be done pursuant to Section 15.08.250(C)(3), the building official shall refer the matter to the city manager, who shall direct that the work be accomplished by personnel of this city or by private contractor under the city's direction. Plans and specifications for the work may be prepared by city staff or the city manager may employ such architectural and engineering assistance on a contract basis as he or she may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard contractual procedures shall be followed.
- B. Costs. The cost of such work may be paid from a repair and demolition fund, and shall be a special assessment against the property involved, or shall be a personal obligation of the property owner.

15.08.290 Repair and demolition fund.

- A. General. The city council may establish a fund to be designated as the repair and demolition fund. Payments may be made out of this fund to defray the costs and expenses which may be incurred by this city in doing or causing to be done the necessary work of repair or demolition of dangerous buildings. Costs may be paid from any other fund of the city as may be deemed appropriate by the city council.
- B. Maintenance of Fund. The city council may at any time transfer to the repair and demolition fund, out of any money in the general fund, such sums as it may deem necessary in order to expedite the performance of the work of repair and demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections provided for in Section 15.08.390. All funds collected under the proceedings provided for in this chapter shall be paid to the city and may be credited to the repair and demolition fund or to the general fund.

15.08.300 Account of expense--Filing of report.

The city recorder shall keep an itemized account of the expense incurred by this city in the repair or demolition of any building done pursuant to the provisions of Section 15.08.250(C)(3). Upon the completion of the work of repair or demolition, the city recorder shall prepare and file a report specifying the work done, the itemized and total cost of the work, a

description of the real property upon which the building or structure is or was located, and the names and addresses of

the persons entitled to notice pursuant to Section 15.08.120(C).

15.08.310 Report transmitted to council--Hearing date set.

The city recorder shall present the report to the city council for consideration. The city council shall fix a time, date and place for hearing the report and any protests or objections to it. The city recorder shall cause notice of the hearing to be posted upon the property involved, published once in a newspaper of general circulation in this city, and served by certified mail, postage prepaid, addressed to the owner of the property as his or her name and address appear on the last assessment roll of the county or as known to the city recorder. Such notice shall be given at least ten (10) days prior to the date set for hearing and shall specify the day, hour and place when the city council will hear and pass upon the recorder's report, together with any objections or protests which may be filed in accordance with Section 15.08.320.

15.08.320 Protests and objections.

Any person affected by the proposed charge may file written protests or objections with the city recorder at any time prior to the time set for the hearing on the report. Each protest or objection must contain a description of the property in which the signer of the protest is interested and the grounds of such protest or objection. The city recorder shall endorse on every protest or objection the date and time it was received. These protests or objections shall be presented to the city council at the hearing, and no other protests or objections shall be considered.

15.08.330 Hearing of protests.

At the appointed time, the council shall hear and pass upon the report together with any objections or protests. The city council may make such revisions, correction or modification in the report or the charge as it may deem just; and when the city council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the city council on the report and the charge, and on all protests or objections, shall be final and conclusive.

15.08.340 Personal obligation or special assessment.

- A. General. At the hearing provided for in Section 15.08.330, the city council may order that the charge for completion of the work shall be made a personal charge against the property involved.
- B. Personal Obligation. If the city council orders that the charge shall be a personal obligation of the property owner, it may direct the city attorney to collect the same on behalf of the city by use of all appropriate legal remedies.
- C. Special Assessment. If the city council orders that the charge shall be assessed against the property, the council shall confirm the assessment and cause it to be recorded on the lien docket as a special assessment and lien upon the property, which shall bear interest as provided in Section 15.08.370(B).

15.08.350 Contesting of assessment.

The validity of any assessment made under the provisions of Section 15.08.340 shall not be contested in any action or proceeding unless it is commenced within thirty (30) days after the assessment is placed upon the lien docket.

15.08.360 Authority for installment payment of assessments with interest.

The city council, in its discretion, may determine that assessments in amounts of five hundred dollars (\$500.00) or more may be payable in not to exceed five equal annual installments. The city council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest (and at what rate) shall be by a resolution adopted prior to the confirmation of the assessment.

15.08.370 Lien of assessment.

- A. Priority. Immediately upon being placed on the lien docket, the assessment shall be deemed to be complete, the amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property. The lien shall continue until the assessment and all interest due and payable thereon are paid.
- B. Interest. All assessments remaining unpaid after thirty (30) days from the date the assessment is recorded on the lien docket shall become delinquent and shall bear interest at the rate of ten (10) percent per annum from and after that date.

15.08.380 Lien collections.

The amount of the assessment which is a lien upon the property pursuant to this chapter shall be collected in accordance with the provisions of Oregon law regarding methods of enforcing liens and collecting assessments by cities.

15.08.390 Repayment of repair and demolition fund.

Money recovered by payment of the charge or assessment or from the sale of the property at a foreclosure sale shall be paid to the city recorder who may credit the same to the repair and demolition fund.

15.08.400 Liability for injuries.

- A. The owner of real property on which a nuisance exists is liable to the person injured because of failure by the owner to abate the nuisance.
- B. If the city is required to pay damages for an injury to any person caused by the failure of an owner to abate a nuisance, the owner shall reimburse the city for the amount of any damages paid, and for the attorney fees and costs of defending against the claim for damages. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.)

15.08.410 Violation--Penalty.

Violation of a provision of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00).

15.08.420 Separate violations.

- A. Each day's violation of a provision of this chapter constitutes a separate offense.
- B. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a fine under Section 15.08.250.