Code Compliance and the Remediation and Demolition of Substandard and Dangerous Structures

April, 2016

In all cases, the goal of code enforcement is to achieve voluntary compliance by the property owner. If the owner fails or refuses to abate or remediate, the choice between filing criminal charges and causing the work to be done at City expense, or doing both, is a judgment call that must be based on the particular circumstances of each case and must be guided by an estimation of the most effective procedure.

This handbook is simply an outline of the processes and procedures that should be followed to remediate or demolish substandard structures and to abate nuisances associated with the final stages of recovery following the December 26, 2015 tornado. It is simply a broad procedural outline and provides guidance on the process intended only to be a source of reference.

The City of Rowlett has adopted the provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition (Sec. 78-91, Code of Ordinances). In addition, the City has adopted various nuisance regulations that prohibit junk motor vehicles, high grass and weeds, dangerous vegetation and dilapidated fencing, as well as a requirement to keep property free of stagnant water, rubbish, and unwholesome matter of any kind. (See, Chapter 22, Code of Ordinances). It must be noted that Section 22-123 defines "rubbish" to include debris remaining after a building has been destroyed by fire or other calamity where the building has not been rebuilt or removed within 90 days of the date of destruction.

Enforcement of the codes follows a basic procedure that always requires inspections and notices. The demolition of a substandard structure involves a relatively complicated process that includes public hearings before the Board of Adjustment. For nuisances, the process does not require a BOA hearing but may include the issuance of citations and hearings at the municipal court level.

Substandard and Dangerous Structures

The process of demolition of a substandard structure that is unfit for occupancy or is a health hazard (i.e., is declared to be a public nuisance) is controlled by the Uniform Code for the Abatement of Dangerous Buildings (referenced in this paper as the "Code") as well as certain provisions of the Texas Local Government Code. The process of enforcement involves inspection, notices, and hearings by the Board of Adjustment before the City can cause the work to be done at City expense.

As a prerequisite, the building must be "dangerous" as defined in section 302 of the Code. Two requirements must be met: 1) any one or more of the eighteen conditions enumerated in section 302 must exist, and 2) the condition of the structure must be severe enough that it presents an immediate danger to the life, health, property or safety of the public or the occupants. Both requirements must be satisfied.

❖ ***Inspection***. In all cases, an inspection must be done to determine the habitability of the structure and its fitness for occupancy. An inspection of the interior is necessary unless the condition of the structure is so rundown that its unfitness for occupancy is obvious from the outside. The City's building official, code enforcement officers and fire marshal are all authorized to conduct inspections.

Although the Code provides a right of entry, an inspection of the interior of a structure must be done with the consent of the occupant or owner or by administrative search warrant.

The inspection should document all violations or conditions that render the structure dangerous as defined in section 302 of the Code. A recitation of the language in the Code is not enough; the report must describe the condition and how it violates section 302. The conditions must be severe enough that it endangers the life, health, property or safety of the public or the occupants. Not enough can be said about the importance of photographs and videos. They will serve as critical and necessary evidence.

The inspection should also consider whether the substandard conditions can be repaired or whether the conditions are so severe that the cost of repair will clearly exceed the cost of demolition. Demolition is the last resort, not the first option.

❖ ***Title Research and Public Hearing***. A public hearing before the Board of Adjustment is required before a building may be demolished. The City must present evidence at this hearing to substantiate the fact that the structure is substandard, is dilapidated, is unfit for occupancy, is hazardous, is dangerous, and is a public nuisance. Every person that owns or holds an interest in the property is entitled to notice, and any interested person may be a witness.

A title search is needed in order to confirm the identity of the owner and any lienholders, and to obtain the legal description of the property (a street address will not suffice). The City must make a diligent effort to identify the owner and any and all lienholders before conducting the public hearing and must give them notice of and an opportunity to comment at the hearing.

Before the Notice is sent or served, a hearing with the Board of Adjustment should be scheduled.

❖ ***Notice***. Once the title work is done and the hearing set, the building official must prepare a Notice and Order, which must be served on the owner and lienholders by certified mail, return receipt requested.[1] The notice may also be personally served on the owner and posted on the property. The form and content of the Notice and Order is prescribed by section 401.2 of the Code and state law. At a minimum, it must:

- contain the street address and legal description of the property;
- briefly and concisely state the conditions or structural deficiencies that render the structure dangerous, substandard, and unfit for occupancy;
- state the action required to be taken to repair or demolish the structure;
- require that the structure be vacated and the occupants relocated within a reasonable time and that the certificate of occupancy (if required) is revoked;
- require that permits and actual work be commenced to repair or demolish within a reasonable time, not to exceed 60 days from the date of the Notice;
- state that any lienholders shall commence and perform the work if the work is not commenced by the owner within a stated time;
- state that if work is not commenced within the specified time, the building official will order the building vacated and may cause the work to be done and will charge the costs against the owner and the property as a lien; and
- state that a public hearing will be held before the City's Board of Adjustment and that that the owner or lienholder will be required to submit at the hearing proof of the scope of any work that may be required to comply with the City's ordinances and the time it will take to reasonably perform the work.

❖ ***Service and Recordation of Notice***. Proper service and recordation of the Notice is critical. At a minimum, the Notice must be served on the owner of the property, any occupants, and any and all lienholders. The Notice:

- must be served by personal delivery on the owner and lienholder or sent by certified mail to each;
- may be conspicuously attached to all exits to the building;
- may be attached to a sign posted on the property;
- must be recorded with the County Clerk's Office with a Certificate within 10 days of the Notice date;[2]
- must be filed with the City Secretary; and
- must be published in a newspaper of general circulation (the publication need not be the entire order, but must state, at a minimum, the property address, the date of hearing, a brief statement of the results of the order, and instructions as to where a complete copy of the order may be obtained).

❖ ***Placard for Notice to Vacate***. If the property has been ordered to be vacated, the Notice and/or a placard should be posted at each exit to the building. The placard must be in the form required by Section 404 of the Code and must be conspicuous.

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[1] When service by certified mail is required, it is advisable to also send the notice/order by regular first class mail. Although the certified mailing may be refused by the addressee, this opportunity does not exist with first class mail.

[2] The certificate is a form certifying that the building is dangerous and that the owner has been notified, with a copy of the Notice attached. To be recorded, the certificate must identify the property by legal description and must be sworn to.

❖ ***Vacating the Structure***. Following the date set in the Notice for vacating the structure, the building official should re-inspect. If no appeal has been filed and if the structure has not been vacated as required by the Notice and Order, law enforcement officials may be asked to enforce the order to vacate, to charge the occupant with the criminal offense of violating the order, and may issue a criminal trespass warning.

❖ ***Disconnection of Utilities***. If no appeal has been filed, then utilities may be discontinued. Specifically, water service may be terminated and electricity and gas may be terminated by contacting the appropriate utility provider.

❖ ***Public Hearing***. Demolition of a structure by the City must be authorized or sanctioned by the City's Board of Adjustment following a public hearing at which the owner and any lienholders may be present. The building official must present evidence of the substandard and dangerous condition of the structure. The owner or lienholders may present evidence of an intent to repair and a schedule within which the repairs will be done. The hearing is public and the Board should allow testimony from the City as well as the owner, lienholder and other interested persons. Neighbors and nearby property owners may be allowed to testify or submit written evidence.

❖ ***Order of BOA***. At the conclusion of the hearing, the Board may: 1) reverse the decision of the building official; 2) allow the owner or lienholder the opportunity to repair the structure, with a schedule for submitting a permit application and a schedule for commencing and completing repairs; or 3) authorize the structure to be secured and/or demolished by the City at City expense.

If the building is found to be substandard, the Board shall require the owner and lienholders to:

- secure the building from unauthorized entry;
- repair, remove or demolish the building unless the owner or lienholder establishes that the work cannot reasonably be performed within 30 days; and
- if the Board allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the Board shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

The Board may not allow more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner or lienholder:

- submits a detailed plan and time schedule for the work at the hearing; and
- establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

If the Board allows more than 90 days, it shall require the owner or lienholder to regularly submit progress reports to the City to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner or lienholder appear before the Board or building official to demonstrate compliance with the time schedules. If the owner or lienholder owns property within the City that exceeds $100,000 in total value, the Board may require the owner or lienholder to post a cash or surety bond or letter of credit within 30 days of the hearing in an amount adequate to cover the cost of repairing, removing, or demolishing the building.

- ***Service and Recordation of BOA Order***. The Order must:
  - be in writing and signed by the Board or its chair;
  - contain:
    - the address and legal description of the property,
    - a description of the violations,
    - the deadlines and schedule for commencing and completing repairs, and
    - a statement that the City will \vacate, secure, remove or demolish the building if the ordered action is not taken within a reasonable time (at least 30 days);
  - be filed with the County Clerk's Office within 10 days after the Order is effective;
  - be filed with the City Secretary;
  - be published in a newspaper of general circulation (the publication need not be the entire order, but must state, at a minimum, the property address, the date of hearing, a brief statement of the results of the order, and instructions as to where a complete copy of the order may be obtained); and
  - be served on the owner and lienholders by certified mail, return receipt requested.

The law allows an owner or lienholder the right to appeal the Board's decision to a state district court. Therefore, no action should be taken on the Board's decision until at least 30 days has expired following the entry of the Board's order.

- ***Demolition vs. Repair***. No work can be done by the City until at least 30 days have elapsed after the Board has signed its Order. The option to repair is limited; the City cannot lawfully expend public funds to benefit private persons, and this prohibition would include an expenditure of City funds to enhance real property. However, if demolition is ordered, a statement of expense (or an invoice) must be filed as a lien.

- ***Filing the Lien***. The costs incurred by the City in demolishing or remediating a substandard structure must be assessed against the owner as well as the property by filing a lien. The lien form is substantially the same as the form currently used for mowing liens.

Nuisance Conditions

Nuisances include high grass and weeds, accumulations of trash and debris, dilapidated fencing, junk vehicles, and stagnant water. The process of remediation does not require public hearings before the Board of Adjustment.

- ***Inspection***. Whether initiated by complaint, by district sweep, or by chance, an inspection is the first step. An inspector may observe a violation from a street or alley, from adjacent property, or by entry with the consent of an occupant. If entry into the interior of a structure or a fenced yard is necessary, and if the occupant or owner refuses to give consent, an administrative search warrant must be obtained, based on probable cause.

- ***Notice***. Before a citation is issued, and certainly before any lien can be filed, a notice must be served on the property owner. If the occupant is not the owner, it is advisable but not required that the

occupant also be given the notice. The notice must identify the specific violation and must give at least seven (7) days to correct. For nuisance violations (high grass and weeds, fencing, and accumulations of trash and debris), the notice should contain a statement that says no further notices may be sent if the violation re-occurs within the ensuing year. The notice should also warn that the City may cause the work to be done and, if so, will assess the cost of the work against the owner and against the property as a lien.

Notice must be given to the owner personally or by certified mail at the owner's address listed with the appraisal district records. If personal service cannot be done, then notice may be given by: 1) publishing the notice in the newspaper, 2) posting the notice on or near the front door, or 3) posting the notice on a placard attached to a stake driven into the ground on the property.

❖ ***Citations***. A citation initiates a criminal case in the City's municipal court and can be issued to the owner, the occupant, or the person having control or supervision over the property. It is always preferable to issue the citation personally to the defendant and to obtain the signature of the defendant on the citation itself simply because without a signature, the court cannot issue a warrant to compel a court appearance.

Generally, each day a violation occurs is a separate violation for which a citation may be issued. However, if a homeowner is issued numerous citations, the city is inviting a claim or defense based on harassment.

Texas law allows the filing of a criminal case against a corporation but the process is not straightforward. As a rule, there will be a person in charge of the company or the property to whom a citation should be issued.

The court process does not guaranty that the violation will be corrected. At best, the court can punish a defendant by assessing a fine. In some cases, the court can require compliance as a condition of deferred disposition (i.e., probation), but at the end of the process, the assessment of a fine is the limit of the scope of the court's authority. If the defendant is indigent, the assessment of a fine may not be an effective or viable option.

❖ ***Causing the Work to be Done***. If a notice is issued and the violation is not corrected, the City has the authority to hire a contractor and correct the violation at city expense. Since this involves an expenditure of public funds, a lien should always be filed. A statement of expense or a copy of the invoice should be attached to the lien form, which should be filed with the county clerk's office of the county in which the property is located.

FORM NOTICE OF VIOLATION

[City of Rowlett Letterhead]

[DATE]

[Owner's Name]
[Owner's Street Address]
[City, State, Zip]

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Code Violations and Notice to Repair or Demolish
[Street Address of Structure]
Lot ___, Block ___, _____Addition/Subdivision, City of Rowlett, _____ County, TX

Dear Owner:

The City of Rowlett's Code Enforcement officials have conducted an inspection of the above real property, which is owned by you. The City has adopted the provisions of the Uniform Code for the Abatement of Dangerous Buildings. The inspection has noted the following conditions that render the property substandard, unfit for occupancy and dangerous:

1. Sec. 302.__: _____
2. Sec. 302.__: _____
3. Sec. 302.__: _____
4. Sec. 302.__: _____

The City's codes establish minimum standards governing structures, utilities, facilities and conditions essential to making dwellings safe, sanitary and fit for human use and habitation. Structures that become dangerous to human life or the public welfare or that involve inadequate maintenance are deemed unsafe and dangerous. The foregoing conditions are violations of the City's ordinances and regulations and render the structure a public nuisance. The structure must be vacated and any occupants must be relocated within ten (10) days of the date of this Notice.

The building must be repaired or demolished. Work must commence and a permit application must be submitted within not less than twenty (20) days of the date of this notice. Any lienholders shall commence work and submit a permit application for the work if the owner fails to do so within 20 days, and a lienholder or mortgagee may be given additional time. All work must be completed and the property must be in compliance with the City's codes within forty-five (45) days of this notice. The property must be secured to prevent unauthorized entry while the work is being performed.

Should the owner or lienholder fail to commence work within the stated time, and should the work not be completed, the City may cause the work to be done, and may demolish the structure, and

will assess the costs of demolition against the owner and will file a lien against the property to recover all costs. The costs may include administrative fees, interest and/or legal fees.

Please note that a public hearing has been scheduled before the City's Board of Adjustment at the following date and time:

_____ o'clock, ___.M., on the _____ day of _____, 20___.

The hearing will be held at the Rowlett City Hall, in the Council Chambers, at 4000 Main Street, Rowlett, Texas. You are required to appear and submit at this hearing proof of the scope of work that is required to comply with the City's ordinances and regulations, and the time it will take to reasonably perform the work.

If this work does not commence within the times stated in this notice, the Board of Adjustment of the City may order the building be vacated, secured, repaired, removed, or demolished and posted no further occupancy is allowed until all required work is completed. The City may then proceed to have the work done and charge the costs to you and impose a lien against the property.

Any person having any record title or legal interest in the building has the right to participate. Should you or the lienholder or mortgagee fail to appear at the hearing, your failure to appear may be considered a waiver of any right to contest the determination of the City's officials that the property is substandard, dangerous and a public nuisance.

A copy of this notice will be filed with the City Secretary of the City of Rowlett and a notice will be published in a newspaper of general circulation in the City that contains the property's street address, the date of a hearing before the Board of Adjustment, a brief statement indicating the findings and results of this order, and instructions stating where a complete copy of this order may be obtained.

Your immediate attention to these violations is appreciated. Please contact the Rowlett Code Enforcement Office at (972) 412-6100, with any questions regarding this order.

Sincerely,

Code Enforcement Officer

Cc: [Lienholder Name and Address] (By Certified Mail, Return Receipt Requested)

FORM CERTIFICATION

STATE OF TEXAS)
COUNTY OF _____)

CERTIFICATE OF SUBSTANDARD STRUCTURE

THIS IS TO CERTIFY that the following described property and the structure situated thereon has been determined by the Code Enforcement Officer of the City of Rowlett, Texas, to be substandard, unfit for human occupancy, dangerous, and a public nuisance:

BEING Lot _____ of Block _____, of the _____ Addition/Subdivision to the City of Rowlett, _____ County, Texas, and being more commonly known as the property situated at [Street Address].

The owner and any lienholders and mortgagees have been notified of the substandard condition of the structure in accordance with the Notice, attached hereto and incorporated herein. Said Notice has been served on the owner and all lienholders and mortgagees in accordance with law.

_____
(Signature)

_____
(Print Name and Title)

ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me, the undersigned authority, by _____, the authorized representative of the City of Rowlett, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

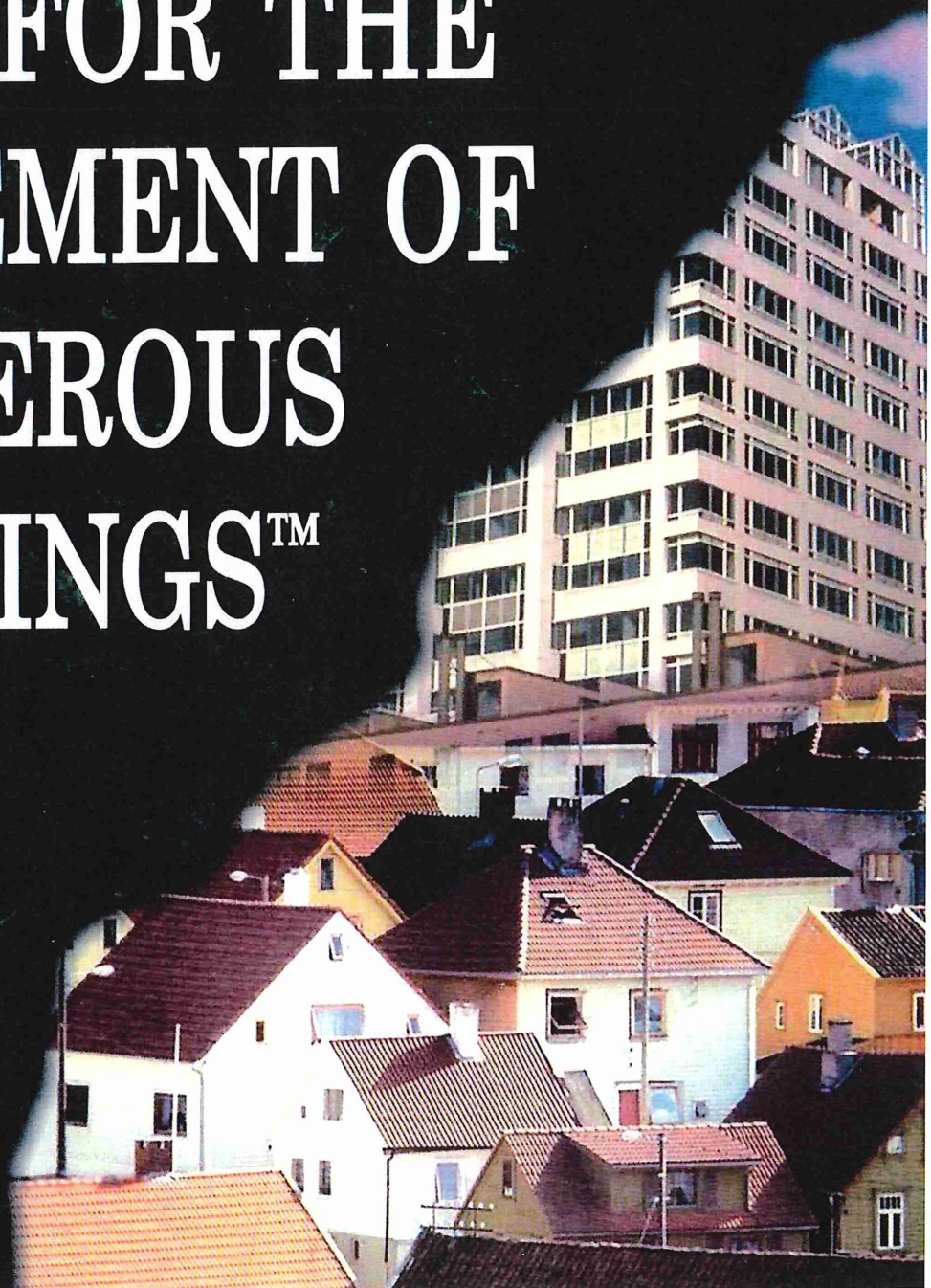
GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 20___.

_____
Notary Public in and for the State of Texas

UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

1997

UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS™



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Preface

The provisions of this code were developed to afford jurisdictions reasonable procedures for the classification and abatement of dangerous buildings.

This code is designed to be compatible with the *Uniform Building Code*™ and the *Uniform Housing Code*™. While the Housing Code is applicable only to residential buildings, the *Uniform Code for the Abatement of Dangerous Buildings*™ is designed to apply to all types of buildings and structures. The notices, orders and appeals procedures specified have been found to be workable and are referenced by the *Uniform Building Code.*

If properly followed, the provisions of this code will provide the building official with the proper legal steps in abating dilapidated, defective buildings which endanger life, health, property and public safety within concepts of fair play and justice.

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Chapter 1
TITLE AND SCOPE

SECTION 101 — TITLE

These regulations shall be known as the *Uniform Code for the Abatement of Dangerous Buildings,* may be cited as such, and will be referred to herein as "this code."

SECTION 102 — PURPOSE AND SCOPE

102.1 Purpose. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

102.2 Scope. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 103 — ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 3403 of the Building Code.

Chapter 2
ENFORCEMENT

SECTION 201 — GENERAL

201.1 Administration. The building official is hereby authorized to enforce the provisions of this code.

The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

201.2 Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

"Authorized representative" shall include the officers named in Section 201.2 and their authorized inspection personnel.

SECTION 202 — ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

SECTION 203 — VIOLATIONS

It shall be 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 code.

SECTION 204 — INSPECTION OF WORK

All buildings or structures within the scope of this code 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 code and Sections 108 and 1701 of the Building Code.

SECTION 205 — BOARD OF APPEALS

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

205.2 Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

Chapter 3
DEFINITIONS

SECTION 301 — GENERAL

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged,* copyright 1986, shall be construed as providing ordinary accepted meanings. 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 the masculine.

BUILDING CODE is the *Uniform Building Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.

HOUSING CODE is the *Uniform Housing Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

SECTION 302 — DANGEROUS BUILDING

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 life, health, property or safety of the public or its occupants are endangered.

1. 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.

2. 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.

3. 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 Building Code for new buildings of similar structure, purpose or location.

4. 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 less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

5. 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.

6. 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 so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

7. 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.

8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. 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.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. 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 jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) 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.

15. 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 health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. 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 marshal to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. 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 in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Chapter 4
NOTICES AND ORDERS OF BUILDING OFFICIAL

SECTION 401 — GENERAL

401.1 Commencement of Proceedings. When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. 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 302 of this code.

3. A statement of the action required to be taken as determined by the building official.

3.1 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 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.

3.3 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 60 days from the date of the order); that all required permits be secured therefor within 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. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

5. Statements advising (i) that 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 code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

401.3 Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record 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 by the provisions of this section.

401.4 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 such person at their address as it appears on the last equalized 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.

401.5 Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a 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 retained by the building official.

SECTION 402 — RECORDATION OF NOTICE AND ORDER

If compliance is not had with the order 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 recorder a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections 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 recorder 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.

SECTION 403 — REPAIR, VACATION AND DEMOLITION

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

1. Any building declared a dangerous building under this code shall be made to comply with one of the following:

1.1 The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or

1.2 The building shall be demolished at the option of the building owner; or

1.3 If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.

2. 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 404 — NOTICE TO VACATE

404.1 Posting. Every notice to vacate shall, in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
. . . . . of . . . . . .

404.2 Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 401.2, 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 issued pursuant to the provisions of the Building Code.

Chapter 5
APPEAL

SECTION 501 — GENERAL

501.1 Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order or any action of the building official under this code by filing at the office of the building official a written appeal containing:

1. A heading in the words: "Before the board of appeals of the . . . . . of . . . . . ."

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.

The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that 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 adjacent property and is ordered vacated and is posted in accordance with Section 404, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

501.2 Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

501.3 Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the board of appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board 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 at the address shown on the appeal.

SECTION 502 — EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SECTION 503 — SCOPE OF HEARING ON APPEAL

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

SECTION 504 — STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to Section 404, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

Chapter 6
PROCEDURES FOR CONDUCT OF HEARING APPEALS

SECTION 601 — GENERAL

601.1 Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

601.2 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.

601.3 Reporting. The proceedings at the hearing shall also be reported by a phonographic 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 fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.

601.4 Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

601.5 Oaths—Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

601.6 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.

SECTION 602 — 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 or name of hearing examiner) at . . . . . on the . . . . . day of . . . . . , 19 . . . . . , at the hour . . . . . , upon 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 books, documents or other things by filing an affidavit therefor with (board of appeals or name of hearing examiner)."

SECTION 603 — SUBPOENAS

603.1 Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

603.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

603.3 Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

SECTION 604 — CONDUCT OF HEARING

604.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

604.2 Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

604.3 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 courts of competent jurisdiction in this state.

604.4 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 courts of competent jurisdiction in this state.

604.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

604.6 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 the witness to testify;
5. To rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.

604.7 Official Notice.

604.7.1 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.

604.7.2 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.

604.7.3 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 hearing examiner.

604.7.4 Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner 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 or hearing examiner.

SECTION 605 — METHOD AND FORM OF DECISION

605.1 Hearing before Board Itself. When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

605.2 Hearing before Examiner. If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

605.3 Consideration of Report by Board—Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

605.4 Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

605.5 Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

605.6 Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 605.5, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

605.7 Form of Decision. The 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 by certified mail, postage prepaid, return receipt requested.

605.8 Effective Date of Decision. The effective date of the decision shall be as stated therein.

Chapter 7
ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

SECTION 701 — COMPLIANCE

701.1 General. After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. 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

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
. . . . . of . . . . . .

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, 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 therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 702 — EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said 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 the notice and order.

SECTION 703 — INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction 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 code; or with any person to whom such building has been lawfully sold pursant to the provisions of this code, 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, pursant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursant to this code.

Chapter 8
PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801 — GENERAL

801.1 Procedure. When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

801.2 Costs. The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 802 — REPAIR AND DEMOLITION FUND

802.1 General. The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

802.2 Maintenance of Fund. The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or 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 hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the repair and demolition fund.

Chapter 9
RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 — ACCOUNT OF EXPENSE, FILING OF REPORT

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction 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 401.3.

SECTION 902 — NOTICE OF HEARING

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 — PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.

SECTION 904 — HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body 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 legislative body of this jurisdiction on the report and the charge, and on all protests or objections, shall be final and conclusive.

SECTION 905 — PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

905.1 General. The legislative body of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

905.2 Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.

905.3 Special Assessment. If the legislative body of this jurisdiction orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

SECTION 906 — CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

SECTION 907 — AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of $500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

SECTION 908 — LIEN OF ASSESSMENT

908.1 Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several 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 and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

SECTION 909 — REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this

jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

SECTION 910 — FILING COPY OF REPORT WITH COUNTY AUDITOR

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SECTION 911 — COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

SECTION 912 — REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.