
CHAPTER 145

DANGEROUS BUILDINGS

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145.01 ABATEMENT OF DANGEROUS BUILDINGS.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which are dilapidated or deteriorated, or which constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or in this Code of Ordinances, are, for the purpose of this chapter, dangerous buildings. All such dangerous buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, removal, and/or vacation in accordance with the procedures specified in this chapter.

145.02 DEFINITIONS.

The following terms are defined for use in this chapter:

1. "Dangerous building" means any building, structure, or mobile home meeting any or all of the following criteria:

A. Health Hazard. 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 any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

B. Fire Hazard. 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 to be a fire hazard.

C. Damaged Building. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the sustaining of such damage. Whenever a building or structure has become so dilapidated or deteriorated as to:

- (1) Become an attractive nuisance to children; or
- (2) Become a harbor for animals, vagrants, or criminals; or
- (3) Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

D. Public Nuisance. A building or structure which constitutes a public nuisance. A building or structure constitutes a public nuisance when it is in such condition as to be injurious to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

E. Abandoned Building. Any building or structure or portion thereof which has stood with an incomplete exterior shell for longer than six months, or any building or structure or portion thereof which has stood unoccupied for longer than six months and is unsecured.

F. Collapse of Member. 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.

G. Uncovered Windows/Doors. Whenever any glass is broken or missing from doors or windows, or doors and windows themselves are missing, and the openings thereby created are not boarded up.

H. Exterior Walls. Whenever the exterior walls or other vertical structural members:

- (1) 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; or
- (2) Contain holes or openings that are not boarded up or otherwise adequately covered; or
- (3) Exhibit 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

I. Collapsible. 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.

J. Manifestly Dilapidated. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly dilapidated, deteriorated, or decayed.

K. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe.

2. "Responsible party" means any person having possession or control of real or personal property, including without limitation any

one or more of the following:

- A. Owner;
- B. Agent;
- C. Assignee or collector of rents;
- D. Holder of a contract or deed;
- E. Mortgagee or vendee in possession;
- F. Receiver or executor or trustee;
- G. Lessee or occupant;
- H. Other person, firm or corporation exercising apparent control over a property.

145.03 ENFORCEMENT OFFICER.

The Police Chief is hereby authorized to enforce the provisions of this chapter. The Police Chief may designate and authorize persons to enforce this chapter.

145.04 RIGHT OF ENTRY.

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the enforcement officer 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 chapter which makes the building or premises unsafe, dangerous or hazardous, the enforcement officer may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises be occupied that entry be requested. If such building or premises is unoccupied, the enforcement officer 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 enforcement officer shall have recourse to the remedies provided by law to secure entry.

145.05 AUTHORITY TO ABATE.

1. The creation or maintenance of a dangerous building is unlawful and prohibited and shall constitute a municipal infraction, and is subject to civil penalties and/or subject to abatement or halting the violation. Occupancy of a dangerous building is unlawful and prohibited and shall constitute a municipal infraction, and is subject to civil penalties and/or subject to abatement or halting the violation.

2. The enforcement officer is authorized to abate dangerous buildings and their occupancy in accordance with the procedures set forth in this chapter.

145.06 NOTICE TO ABATE.

1. The enforcement officer shall serve upon the owner of or responsible party for the property upon which the dangerous building is being maintained, or upon the person or persons causing or maintaining the dangerous building, and upon any occupant of a dangerous building, a written notice to abate as prescribed below.

2. Notice to abate shall be served by the following methods:

A. By personal service as provided in Iowa Rule of Civil Procedure upon the owner and/or responsible party of the property upon which the dangerous building exists, and upon any occupant thereof.

B. If, after reasonable effort, personal service upon any person cannot be made, the notice shall be served upon such person by sending same by certified mail, return receipt requested, to the person's last known mailing address. If service by mail cannot be made, the notice shall be served by (i) publishing the notice once a week for two consecutive weeks in a newspaper of general circulation in the City, and (ii) by posting the notice in a conspicuous place on the property or building deemed a dangerous building.

3. Content of Notice to Abate. The notice to abate shall include the following information:

A. The description of what constitutes a dangerous building, citing the appropriate chapter section.

B. Description of the action necessary to abate the dangerous building. Description of the action necessary to abate the occupancy of a dangerous building.

C. The order to abate within a specified time period.

D. Explanation that failure to abate the dangerous building and/or the occupancy thereof within the time specified will result in the issuance of a civil citation charging the owner, responsible party, or occupant with a municipal infraction.

E. Explanation that each day the dangerous building goes unabated constitutes a separate offense.

145.07 POSTING OF SIGNS.

In the event that the dangerous building is not abated as ordered and within the time specified in the notice to abate, the enforcement officer shall cause to be posted at each entrance to such building a sign in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

Occupancy of this building constitutes a municipal infraction.

It is a municipal infraction to remove or deface this sign.

Enforcement Officer

City of Earlham

The signs shall remain posted until the required repairs, demolition, or removal are completed. The signs shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building. Removing or defacing the sign, and/or entering the building without permission of the enforcement officer, shall constitute a municipal infraction.

145.08 ABATEMENT REMEDIES.

1. Abatement of a dangerous building may include but shall not be limited to repair, removal, cleaning, extermination, cutting, mowing, grading, sewer and plumbing repairs, draining, securing, repairing a building or structure, boarding buildings, barricading or fencing; removing dangerous portions of buildings or structures, demolition of dangerous structures or abandoned buildings; abatement of occupancy of a dangerous building shall be by vacating same.

2. The cost of abatement may be assessed against the property for collection in the same manner as property taxes. Abatement costs shall include the cost of investigation, such as title searches, inspection, and testing; the cost of notification, filing costs, and other related administrative costs. In addition, the City may take any other action deemed appropriate to recover costs incurred.

145.09 EMERGENCY ABATEMENT PROCEDURE.

When the enforcement officer determines that a dangerous building exists on a property and the dangerous building constitutes an imminent clear and compelling danger to health, safety or welfare of persons or property, the enforcement officer is authorized to abate or have abated the dangerous building without prior notice and opportunity of hearing. The costs of such action may be assessed against the property for collection in the same manner as property tax. However, prior to such assessment, the city shall give a property owner notice by certified mail and the opportunity for hearing before the Council. Notice shall be sent by certified mail, return receipt requested. Notice shall set forth the amount proposed to be assessed, and include a statement of the time, place and date of hearing.