



BILL NO. 3989

ORDINANCE NO. 18-

INTRODUCED BY
ALDERMEN TERBROCK, FINLEY, ROACH, STALLMANN, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 7 BY THE REPEAL OF EXISTING SECTIONS AND THE ENACTMENT OF SEVERAL NEW SECTIONS ALL RELATING TO DANGEROUS BUILDINGS AND THE PROCEDURES FOR ABATEMENT

WHEREAS, dangerous buildings pose a significant hazard to the public in that portions of such buildings may collapse, there is often an increased risk of fire, they may attract children, and other reasons; and

WHEREAS, dangerous buildings constitute a public nuisance and are detrimental to the public's health, safety and welfare; and

WHEREAS, state law provides a detailed procedure to address dangerous buildings; and

WHEREAS, it is of the upmost importance to have thorough and lawful procedures in place so that the City may adequately and timely address the presence of any dangerous building within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, MISSOURI, AS FOLLOWS:

Section 1. Article VI of Chapter 7 is hereby repealed and, in lieu thereof, a new Article VI is hereby enacted which shall read as follows:

CHAPTER 7 BUILDINGS AND STRUCTURES

ARTICLE VI. DANGEROUS BUILDINGS

Sec. 7-126. – Building and Structure, Defined. For the purpose of this Article, a "building" or "structure" is declared to be that which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks, or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

Sec. 7-127. – Nuisance Declared. Pursuant to Sections 67.400 through 67.450, RSMo., the buildings or structures which are determined to be detrimental to the health, safety or welfare of the residents of the City of Pacific, are hereby declared to be a public nuisance.

Sec. 7-128. – Conditions Detrimental to the Public Health, Safety and Welfare. Buildings and structures as hereinafter described are declared to be detrimental to the health, safety and welfare of City residents:

1. Those buildings or structures which have been damaged by fire, wind, or any other cause whatsoever, thus rendering them dangerous to life, safety, morals or the general health and welfare of any occupant or any other person.
2. Those buildings or structures which have parts thereof which are attached or have deteriorated in such a way that they constitute a threat of falling upon public ways or upon the property of others or which may constitute a threat of injury to members of the public or the occupants thereof.
3. Those buildings or structures which have become so dilapidated, decayed, unsafe, or unsanitary so that they are unfit for human habitation, or are likely to cause sickness or disease to the occupants thereof or to any other person.
4. Those buildings or structures which, because of their condition, become harboring places for rats, stray animals, vermin or other disease bearing creatures, and which are unsafe, unsanitary or dangerous to the health, safety or general welfare of any person.
5. Those occupied buildings or structures having light, air, or sanitary facilities that are inadequate to protect the health, safety or general welfare of any person who may live or work therein.
6. Those buildings or structures, whether occupied or unoccupied, having inadequate facilities for egress in case of fire, or other catastrophe, or those buildings with structures having insufficient stairways, elevators, fire escapes to allow adequate egress therefrom.
7. Those buildings or structures which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or welfare of any person.
8. Those buildings or structures whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passed through the center of gravity of such wall or vertical structural member falls outside of the middle third ($\frac{1}{3}$) of its base.
9. Those buildings or structures, which, exclusive of the foundation show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.

10. Those which have improperly distributed loads upon the floors or roofs or in which the floors or roofs are overloaded, or those having floors or roofs of insufficient strength to be reasonably safe for the purpose for which they are being used or intended to be used.

11. Partially-constructed buildings upon which no substantial work shall have been performed for ninety (90) days.

12. Those in the process of demolition upon which no substantial work shall have been performed for a period of fourteen (14) days.

Sec. 7-129. – Open Buildings Declared a Nuisance.

Those buildings or structures which are uninhabited, but which remain open or unlocked or have openings in any door, window, wall or roof, so that the same may be entered by animals, children or unauthorized persons. Such buildings or structures shall be required to be secured.

Section 7-130. - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector or other designee of the city engineer in ordering repair, vacation, or demolition:

- (1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
- (2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered vacated.
- (3) In any case where a dangerous building is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the city or statute of the state, it shall be demolished.

Sec. 7-131. - Duties of building inspector.

The building inspector shall:

- (1) Inspect any building, wall or structure that may be existing in violation of this article.
- (2) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building as shown by the land records of the recorder of deeds of the county, or any building found by him to be a dangerous building within the standards set forth in this article, that:
 - a. The owner must vacate, repair, or demolish the building in accordance with the terms of the notice and this article;

- b. The occupant or lessee must vacate the building or may have it repaired in accordance with the notice and remain in possession;
- c. The mortgagee, agent or other persons having an interest in the building as shown by the land records of the recorder of deeds for the county may at his own risk repair, vacate, or demolish the building or have such work or act done;

provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time as may be necessary to commence the work or act as required by the notice provided for herein.

- (3) Set forth in the notice provided for in subsection (2) hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time as is reasonable.
- (4) Set forth in the notice provided for in subsection (2) hereof, the date, time and place for a hearing to be held before the City Administrator or his designee which shall be not less than ten (10) days following service of the notice.
- (5) Such notice shall be serviced either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service shall be had by publication.
- (6) Report to the City Administrator any noncompliance with the notice provided for in subsections (2) and (3) hereof.
- (7) Appear at all hearings conducted by the City Administrator, or his designee, and testify as to the condition of dangerous buildings.

Sec. 7-132. – Duties of the City Administrator

The City Administrator or his designee shall:

- (1) Hold a hearing and hear such testimony and receive such evidence as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in the building as shown by the land records of the recorder of deeds for the county shall offer relative to the dangerous building. At such hearing, any party may be represented by counsel and all parties shall have an opportunity to be heard.
- (2) Consider the evidence offered and make written findings of fact, based on competent and substantial evidence, as to whether the building or structure is a nuisance and detrimental to the health, safety, or welfare of the resident of the City.
- (3) Issue an order based upon findings of fact made pursuant to subsection (2) above commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building, as shown by the land records of the recorder of deeds for the county, to repair, vacate, or demolish any building found to be a dangerous building within the terms of this Code. If the evidence does not support a finding that the building or

structure is a nuisance or detrimental to the health, safety, or welfare of the residents of the City, no order shall be issued.

- (4) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (3) above within the time prescribed in the original Notice or in the Order, the City Administrator shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards provided for in section 7-130.
- (5) Certify the cost of any repair, vacation or demolition to the Finance Officer. The costs and expenses incurred by the city shall include the actual costs billed by third parties performing the abatement and paid by the City, costs billed by the City Attorney related to the abatement and paid by the City; and costs related to time spent by City personnel in performing tasks related to the abatement and in preparation of the tax bill, lien, or other paperwork (these costs shall be based on the time spent in quarter of an hour increments multiplied by the hourly rate of pay for the employee). All City Departments shall provide invoices and other necessary documentation to the City Administrator in order to determine the costs and expenses related to the abatement of a dangerous building or structure.

Sec. 7-133. – Appeal of City Administrator’s Order.

Any interested party may appeal the decision and order of the City Administrator or his designee rendered under this Article. If a proper record as defined in Section 536.130 RSMo is maintained of the hearing, then such appeal shall be made to the St. Louis County Circuit Court pursuant to Sections 536.100 to 536.140 RSMo. If such a record is not maintained, the appeal shall be made to the St. Louis County Circuit Court within thirty (30) days of the date of the decision and order pursuant to Section 536.150 RSMo.

Sec. 7-134. - Special Tax Bills and Lien Against Property.

A. The Finance Officer shall prepare a special tax bill or assessment for the costs related to the demolition, repair or vacation of property. The tax bill from the date of its issuance shall be deemed a personal debt of the property owner and shall also be a lien on the property until paid.

B. If the building or structure is demolished or repaired by a contractor pursuant to an order issued by the city and such contractor files a mechanic’s lien against the property, the contractor may enforce this lien as provided in sections 429.101 to 429.360 RSMo.

C. At the request of the property owner, the tax bill may be paid in annual equal installments over a period of not more than ten years. Installments with interest thereon to date on the unpaid balance shall be due annually on the anniversary of the date of issuance of the bill or such other date as determined in writing by the Finance Officer. Interest shall be at the statutory rate on the unpaid balance of the tax bill computed from the date of issuance. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable. If request for installment is not made to the



City, the tax bill shall be due and payable in thirty (30) days from its date of issuance with interest thereon at the statutory rate until paid.

D. The tax bill may be collected in any manner provided by law. Tax bills issued under this Section shall be prima facie evidence of the validity of the bill, the doing of the work and the liability of the property and property owner for the charges stated in the bill.

Sec. 7-135. - Violations; penalty.

- (a) The owner of any dangerous building who shall maintain a dangerous building or fail to comply with any notice or order to repair, vacate, or demolish such building given pursuant to this article or who fails to proceed continuously without unnecessary delay shall be guilty of a violation and subject to a fine not exceeding one thousand dollars or, if the owner of the property is not also a resident of the property, then a fine not exceeding two thousand dollars, and/or imprisonment in accordance with the general penalty provisions for ordinance violations as set forth in this Code.
- (b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair the building in accordance with any notice given as provided for in this article shall be guilty and subject to a fine not exceeding one thousand dollars and/or imprisonment in accordance with the general penalty provisions for ordinance violations as set forth in this Code.
- (c) Any person removing any placard or notice prohibiting entry or occupancy of the dangerous building shall be guilty of a violation and subject to a fine not exceeding one thousand dollars and/or imprisonment in accordance with the general penalty provisions for ordinance violations as set forth in this Code.

Sec. 7-136. - Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life, safety or health of any person unless a dangerous building as defined herein is immediately vacated, and/or made secure against unauthorized entry, and/or repaired, and/or demolished, the building inspector shall report such facts to the City Administrator or his designee. The City Administrator shall immediately cause the dangerous building to be vacated, and/or be made secure against unauthorized entry, and/or repaired, and/or demolished as the circumstances warrant. The cost to the city to cause the emergency repair, vacation, securing, or demolition of such dangerous building shall be collected in the same manner as provided in subsection 7-134.

Sec. 7-137. - Administrative liability.

No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the City until the final determination of the proceedings therein.

Sec. 7-138. – Insurance Proceeds.

A. Notwithstanding any other provisions of this Article, if there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the payment of twenty-five percent (25%) of the insurance proceeds shall be paid to the City. This Section shall apply only to a covered claim payment which is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure.

B. The insurer shall withhold from the covered claim payment twenty-five percent (25%) of the covered claim payment and shall pay such monies to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.

C. The City shall release the proceeds and any interest thereon received under subdivision (A) of this Section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of this Article. If the City proceeded under the provisions of this Article, all monies in excess of that necessary to comply with the provisions of this Article for the removal, securing, repair and cleanup of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

D. This Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

E. This Section does not make the City a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Secs. 7-139 —7-150. - Reserved.

Section 2. The City Clerk shall notify and provide a copy of this ordinance to the Director of the Department of Insurance, Financial Institutions and Professional Registration within fourteen (14) days after the adoption of this ordinance.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSES this ____ day of _____, 2018.

TIM POGUE, MAYOR

APPROVED this ____ day of _____, 2018.

TIM POGUE, MAYOR

ATTEST: _____
ERIC HANSON, CITY ADMINISTRATOR