

CHAPTER 505: DANGEROUS BUILDINGS

SECTION 505.010: PURPOSE AND SCOPE

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Seligman, Missouri.

SECTION 505.020: DANGEROUS BUILDINGS DEFINED

All buildings or structures that are detrimental to the health, safety or welfare of the residents of the City and that have any or all of the following defects shall be deemed "dangerous buildings":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
9. Those that because of their condition is unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.

SECTION 505.030: DANGEROUS BUILDINGS DECLARED NUISANCE

All dangerous buildings or structures, as defined by Section 505.020 of this Chapter are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

SECTION 505.040: STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Building Inspector and the Building Commissioner, in ordering repair, vacation or demolition of any dangerous building.

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be repaired or demolished.

SECTION 505.050: BUILDING INSPECTOR

The Public Works Superintendent shall be the Building Inspector(s) within the meaning of this Chapter.

SECTION 505.060: DUTIES OF BUILDING INSPECTOR—PROCEDURE AND NOTICE

The Building Inspector(s) shall have the duty under this Chapter to:

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.
3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.
4. Notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure, as shown by the land records of the Recorder of Deeds of Barry County, of any building or structure found by him/her to be a dangerous building or structure within the standards set forth in Section 505.020. Such notice shall be in writing and shall be given either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) consecutive weeks.

The notice required shall state that:

- a. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Chapter.

b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.

c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Barry County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done;

provided, that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property, shall be given such reasonable time not exceeding thirty (30) days, to commence the required work.

5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building, a statement indicating that as a dangerous building, said building or structure constitutes a nuisance and an order requiring the designated work to be commenced within the time provided for in the above Subsection.

6. Report in writing to the City Building Commissioner the non-compliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.

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

8. Immediately report to the Building Commissioner concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Building Commissioner may direct that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the Building Inspector.

This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Barry County. It is unlawful to remove this notice until such notice is complied with."

Provided however, that the order by the Building Commissioner and the posting of said notice shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein.

SECTION 505.070: BUILDING COMMISSIONER

The Mayor shall act as Building Commissioner under this Chapter.

SECTION 505.080: DUTIES OF THE BUILDING COMMISSIONER

The Building Commissioner shall have the power pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter, and cause the Building Inspector to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint

or report from any source, that a dangerous building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other City Department or retain services of an expert whenever the Building Commissioner deems such service necessary.

2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the Building Commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice of said hearing shall be given, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service then, by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Barry County, to appear before the Building Commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building and a nuisance should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

3. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building, within the terms of Section 505.020 of this Chapter, and a nuisance.

4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, and a nuisance and detrimental to the health, safety or welfare of the residents of the City, the Building Commissioner shall issue an order base upon and including its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records of the Recorder of Deeds of Barry County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City or the owner or any person having an interest in said building as shown by the land records of the Recorder of Deeds of Barry County, may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. Said order should also provide for a reasonable time within which to perform the work so ordered to be done and that if such work is not commenced and/or completed within that time, said order should also authorize and direct the Building Inspector to perform the work or to cause the work to be performed. If the evidence does not support a finding that a building or structure is a dangerous building; or a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall he issued.

5. If the Building Commissioner or other designated officer or officers issue an order whereby the building or structure is demolished, secured, or repaired, or the property is cleaned up, by or through

the City, the cost of performance shall be certified to the City Clerk or Officer in charge of finance, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the City Collector or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the City and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo. Except as provided in Section 505.090, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten years. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall be a lien on the property until paid.

SECTION 505.090: INSURANCE PROCEEDS—HOW HANDLED

A. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, 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 following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in Subdivisions (1) and (2) of this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:

1. The insurer shall withhold from the covered claim payment up to 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 this Chapter.

2. The City shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (1) of this Subsection 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 Subsection (5) of Section 505.080. If the City has proceeded under the provisions of Subsection (5) of Section 505.080, all monies in excess of that necessary to comply with the provisions of Subsection (5) of Section 505.080 for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

B. If there are no proceeds of any insurance policy as set forth in Subsection (A) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.

C. Subsection (A) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

D. Subsection (A) of 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.

E. The Building Commissioner may certify in lieu of payment of all or part of the covered claim under Subsection (A) that it has obtained satisfactory proof that the insured has removed or will remove

the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Building Commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (A) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this Subsection.

SECTION 505.100: APPEAL

A. Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of Barry County, may within thirty (30) days from the receipt of the order of the Building Commissioner, appeal such decision to the Circuit Court of Barry County, as provided for in Sections 536.100 to 536.140 RSMo., if a proper record as defined in Section 536.130 RSMo., is maintained of the hearing provided for in Section 505.080 hereof. Otherwise, the appeal shall be made pursuant to the procedures provided by Section 536.150 RSMo.

B. In any appeal as provided by this Section, any person who owns or occupies property located within one thousand two hundred (1,200) feet of the perimeter of the building or structure which is the subject of the suit shall be allowed to present evidence to the Court on behalf of the City, of the condition of the building or structure, whether or not such person presented such evidence at the hearing provided by Section 505.080 hereof. The appellant before the Court shall have the opportunity to cross-examine any such person presenting evidence to the Court.

SECTION 505.110: EMERGENCIES

In cases where it reasonably appears that there is immediate danger to the health, life, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 505.080, Subsection (5) et seq.

SECTION 505.120: VIOLATIONS—DISREGARDING NOTICES OR ORDERS

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Building Commissioner or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the Building Commissioner may be deemed a separate offense.