

ORDINANCE

AN ORDINANCE RELATING TO SUBSTANDARD, FIRE HAZARDOUS, UNSAFE OR DILAPIDATED STRUCTURES IN THE CITY OF BUFFALO, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUFFALO, NORTH DAKOTA:

SECTION 1. DEFINITIONS. The following definitions shall apply to the interpretation and enforcement of this ordinance:

1. “Basement” shall mean a story of a building located partly underground, but having less than two-thirds of its clear foot-to-ceiling height below outside grade.
2. “Ceiling” shall mean the interior overhead surface of a room.
3. “Cellar” shall mean a story of a building located partly or wholly underground and having more than two-thirds of its clear foot-to-ceiling height below outside grade.
4. “City Health Officer” shall mean the legally designated health authority of the City or authorized representative.
5. “Dwelling” shall mean any building, structure, or parts thereof used and occupied for human habitation, or intended to be so used, and includes appurtenances (accessories) and utilities belonging thereto or usually enjoyed therewith.
6. “Dwelling Unit” shall mean any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.
7. “Extermination” shall mean the control and elimination of insects, rodents, or other pests by eliminating their harboring places, by depriving or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or any other recognized and legal pest elimination methods approved by the City Health Officer.
8. “Family” shall mean one or more persons occupying a dwelling or dwelling unit and living as a single nonprofit unit.
9. “Garbage” shall mean the animal and vegetable wastes resulting from handling, preparation, cooking, and consumption of food.

10. “Habitable” shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes.
11. “Infestation” shall mean the presence within or around a dwelling, of any insects, rodents or other pests.
12. “Meaning of certain words.” Whenever the words “dwelling”, “dwelling unit”, or “premises” are used in this ordinance, they shall be construed as though they were followed by the words “or any part thereof.” Whenever the masculine pronoun is used, it shall also mean the feminine pronoun.
13. “Multiple Dwelling” shall mean any structure or building containing more than one dwelling unit.
14. “Occupant” shall mean any person, over one year of age, living, sleeping, cooking, eating in, or having actual possession of a dwelling or dwelling unit.
15. “Operator” shall mean any person who has charge, care, or control of a building, or parts thereof, in which dwelling units are let.
16. “Owner” shall mean any person who alone, jointly, or severally with others:
 - a. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 - b. Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of owner, as an executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
17. “Person” shall mean and include any individual, firm, corporation, association, or partnership.
18. “Repair” shall mean to restore to good condition.
19. “Rubbish” shall mean combustible and noncombustible materials, except garbage, and the terms shall include the residue from the burning of wood, coke, and other combustible materials such as paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, glass, crockery, and dust.

20. "Substandard" shall mean any dwelling, dwelling unit, or premises violating and provisions of this ordinance.
21. "Supplied" shall mean paid for, furnished, or provided by or under the control of the owner or operator.
22. "Temporary housing" shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system and located on the same premises for more than thirty (30) consecutive days.

SECTION 2. INSPECTION OF DWELLINGS, DWELLING UNITS, AND PREMISES.

1. The City Health Officer is hereby authorized and directed to make inspections to determine the conditions of all dwellings, dwelling units, and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of such dwellings and of the general public.
2. For the purpose of making such inspections, the City Health Officer is hereby authorized to enter, examine, and survey, at reasonable times, all dwellings, dwelling units, and premises.
3. The owner or occupant of every dwelling or dwelling unit, or the persons in charge thereof, shall give the City Health Officer access to such dwelling, dwelling unit, and its premises, at reasonable times for purposes of inspection.
4. Each occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employees, access to any part of such dwelling, dwelling unit, or its premises, at reasonable times for the purposes of making such repairs and/or alterations as are necessary to effect compliance with the provisions of this or any lawful order issued pursuant to the provisions of this ordinance.

SECTION 3. DWELLING UNIT UNFIT FOR HUMAN HABITATION.

The City Health Officer shall determine that a dwelling is unfit for human habitation or a building is substandard if he finds that any of the following conditions exist:

1. Building supporting members which show thirty-three percent (33%) or more damage or deterioration.
2. Buildings that have interior or outside walls or coverage which shows fifty percent (50%) or more damage or deterioration.

3. Buildings which have floors or roofs with improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used or such framing members deflect over 1/360 of a span.
4. Buildings which have been damaged by fire, wind, or other causes that endanger the lives, safety, or welfare of the occupants or other people of the City.
5. Buildings which are dilapidated decayed, unsanitary, or in disrepair which are likely to cause sickness or disease, or to cause injury to the health, safety, or welfare of the occupants or to other people of the City.
6. Buildings in which each living unit does not have safe and unobstructed means of egress leading to a safe and open space at ground level as required by the City Building Code.
7. Buildings which have defects, therein increasing the hazards of fire, accidents, or other calamities such as lack of adequate ventilation, lighting, heating, heating, or sanitary facilities as endangering the health, morals, safety, or general welfare of the occupants or other residents of the City.
8. Buildings which are in violation of any provisions of the building regulations, fire prevention, or ordinances of the City.
9. Buildings in which the interior walls, ceilings, and floors of all habitable rooms are not of durable material, in good repair, and well painted.
10. Buildings in which the exterior walls are not covered with an approved type of sheathing, stucco, brick, or other recognized type of material in good repair.
11. Buildings or premises that violate any ordinance of the City relating to sanitation and safety.
12. Dwelling units in which the bedrooms or bathrooms are not available through hallways or other means to assure the privacy of the occupants.

SECTION 4. RESPONSIBILITY OF OWNERS AND OCCUPANTS.

1. Every owner of a dwelling or dwelling unit containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises.

2. Every occupant of a dwelling or building shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.
3. Every occupant of a dwelling or dwelling unit shall dispose of all rubbish in a clean and sanitary manner by placing it in the rubbish containers as required by the City ordinance.
4. No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary, fit for human habitation, and not in violation with this ordinance.
5. Every occupant of a dwelling or dwelling unit shall dispose of all garbage and any other organic waste which might be food for rodents, in a sanitary manner by placing it in the garbage disposal facilities or garbage storage containers as required by City ordinance. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two dwelling units and for all dwelling units located on the premises where more than two dwelling units share the same premises. In all other cases, it shall be the responsibility of the occupants to furnish such facilities or containers.
6. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on his premises; and every owner of a dwelling or building containing more than one dwelling unit shall be responsible for such extermination whenever a dwelling unit within such building shall become infested.

SECTION 5. DUTIES OF OCCUPANTS. It shall be the duty of every occupant of a dwelling to:

1. Keep the dwelling unit and grounds pertaining to it in a clean and sanitary condition, free from fire hazards, free of rodents, household pests and vermin harborage.
2. Keep all plumbing in reasonably good working order and free of obstruction.
3. Provide sound and tight garbage, rubbish, and ash containers when the same are not supplied by the owner, and keep all containers by whomever supplied in a clean and sanitary condition.
4. Comply with the requirements of this ordinance when the duties mentioned therein falls on the occupants.

SECTION 6. SUBSTANDARD BUILDINGS OR DWELLING UNITS, NUISANCE. Any buildings of dwelling unit which violates the terms of Section 3, 4 and 5 of this ordinance are hereby declared a public nuisance and dangerous to public health, and shall be repaired, vacated, demolished, or said violations discontinued as hereinbefore and hereinafter provided.

SECTION 7. ENFORCEMENT, SERVICE OF NOTICE AND ORDER, AND THE CITY HEALTH OFFICER'S DUTIES OF. Whenever the City Health Officer determines there has been a violation of any provisions of this ordinance, he shall notify in writing the owner, occupant, lessee, mortgagee, and all other persons having interest in said building or dwelling as shown by the records of the Register of Deeds of Cass County, and any dwelling, dwelling unites, or building found by him to be substandard as set forth in this ordinance, that:

1. The owner must vacate, repair, or demolish said building within the terms of the Notice and Order.
2. The owner or occupant must vacate said building or may have it repaired in accordance with the Notice and Order and remain in possession.
3. Provided that any person notified under this ordinance to repair, vacate, or demolish any building shall be given such reasonable time as may be necessary to do, or have done, the work or acts required by the Notice and Order provided herein and in such case such building must be vacated, such vacation notice shall be complied with in thirty (30) days and such repair or demolition order be complied with in ninety (90) days.
4. Set forth in the notice and Order, provided in subsection 1 herein, a description of the building or structure deemed substandard, a statement of particulars which makes the building or structure a "substandard building" and an order requiring the same to be put in such condition with the terms of the ordinance and within such time as specified but not to exceed ninety (90) days.
5. Report to the City Council any non-compliance with the "Notice and Order" provided for in subsections 1, 2, 3, and 4 herein.
6. Place a Notice of Order on all "substandard buildings" reading as follows:

This building has been found to be a "substandard building" by the City Health Officer. This Notice and Order is to remain on this building until it is repaired, vacated, or demolished in accordance with the Notice and Order which has been given to the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the Register of Deeds of Cass County. It is unlawful to

remove this Notice and Order until such Notice and Order is complied with.

SECTION 8. DUTIES OF TH CITY COUNCIL. The City Council shall:

1. Upon receipt of a report of the City Health Officer as so provided for in Section 7, subsection 5, hereof, give written notice to the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building or structure as shown by the records of the Register of Deeds of Cass County, to appear before it on the date specified in the Notice and Order to show cause why the building or dwelling unit reported to be a “substandard building or substandard dwelling unit” should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the City Health Officer’s Notice and Order, provided herein in Section 7, subsection 1.
2. Hold a hearing and hear such testimony as the City Health Officer or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the records of the Register of Deeds of Cass County shall offer relative to the “substandard building or dwelling unit.”
3. Make written findings of fact from the testimony offered pursuant to subsection 2 hereof as to whether or not the building in question is a “substandard building or dwelling unit” within the terms of Sections 3, 4, and 5 of this ordinance.
4. Issue an order based upon the findings of fact pursuant to Section 7, subsections 1, 2 and 3 commanding the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building as shown by the records of the Register of Deeds of Cass County to repair, vacate, or demolish any building found to be a “substandard building” within the terms of this ordinance.

SECTION 9. FAILURE TO COMPLY WITH THE DECISION OF THE CITY COUNCIL. If the owner, occupant, mortgagee, or lessee fails to comply with the order of the City Council or fails to appeal to the District Court within thirty (30) days as provided herein, the city, through it’s officers and employees, shall cause such building or structure to be repaired , vacated, or demolished as ordered by the City Council and shall cause the cost of such repair, vacation, or demolition to be charged against the land on which said building exists by special assessment, or as a municipal lien, or shall cause the said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

SECTION 10. EMERGENCY ACTION BY THE CITY HEALTH OFFICER. Whenever the City Health Officer finds that an emergency exists which

requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall comply therewith immediately, but upon petition to the City shall be afforded a hearing as soon as possible, in the manner provided in Section 7 hereof. After such a hearing, depending upon the findings as to whether the provisions of this ordinance have been complied with, the City Council shall continue such order in effect, or modify it, or revoke it.

SECTION 11. APPEAL.

1. The City Council shall serve upon the owner, occupant, lessee, mortgagee, and all other persons having an interest in such building so ordered repaired, vacated, or demolished a copy of its order, such order to be served upon such owner, occupant, lessee, or mortgagee within ten (10) days after the issuance of such order. Such owner, occupant, lessee, or mortgagee shall thereafter have thirty (30) days from the date of service of such order served upon him in which to appeal from such order to the District Court of Cass County, North Dakota, or take such other legal steps to enjoin the enforcement of such order as he may deem proper.
2. Any person desiring to appeal from any order issued by the City Council under and by virtue of this section shall file an undertaking in the sum of at least five-hundred dollars (\$500) to be approved by the City Auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in District Court. Such an undertaking shall be payable to the City.

SECTION 12. ENFORCEMENT OF INTERPRETATION. This ordinance shall be enforced by the City Health Officer or other person designated by the City Council in accordance with the provisions of this ordinance.

SECTION 13. PENALTY FOR DISREGARDING NOTICE AND ORDER.

1. The owner of any “substandard building or dwelling unit” who shall fail to comply with any Notice and Order to repair, vacate or demolish the said building or structure given by any person authorized by this ordinance to give such Notice and Order shall be guilty of an infraction. Each 24-hour period subsequent to the issuance of the Notice and Order in which said owner shall fail to comply with the Notice and Order as above stated shall be deemed a separate offense.
2. The occupant or lessee in possession who fails to comply with a Notice and Order to vacate and who fails to repair said building in accordance with any Notice and Order given as provided for in this ordinance shall be

guilty of an infraction. Each 24-hour period subsequent to the issuance of such Notice and Order in which the said occupant or lessee shall fail to comply with said Notice and Order as above stated shall be deemed a separate offense.

3. Any person removing the Notice and Order provided for in Section 7, subsection 6, hereof, shall be guilty of an infraction.

SECTION 14. PENALTY FOR VIOLATION. Any violation of this ordinance shall be an infraction unless another penalty is specifically provided for the violation in this ordinance, or unless state law defines an offense in language similar to the ordinance as a class B misdemeanor, in which case the violation of the ordinance shall be penalized as a class B misdemeanor. An infraction may be punished by a maximum fine of five-hundred dollars (\$500), or such other maximum penalty allowed for an infraction pursuant to Section 12.1-32-01 of the North Dakota Century Code, or any subsequent amendments thereto. Any person convicted of an infraction that has, within one year prior to the commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint or citation shall specify that the offense is a misdemeanor.

A class B misdemeanor may be punished by a maximum fine of one-thousand dollars (\$1,000), or thirty (30) days imprisonment, or both, or such other maximum penalty as allowed for a class B misdemeanor pursuant to Section 12.1-30-01 of the North Dakota Century Code, or any subsequent amendments thereto.

SECTION 15. This ordinance shall be in full force and effect from and after the date of the second reading and final passage and publication.

Bill Marcks
Mayor
(Signed copy in City Office)

ATTEST:

Anita Hovland
City Auditor
(Signed copy in City Office)
Date of First Reading: 4/03/2000
Date of Second Reading and Final Passage: 5/01/2000
Date of Publication: 5/10/2000