

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING CHAPTER 515 DANGEROUS BUILDINGS.

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

Section 1. That the Code of Ordinances of the City of Osage Beach, in Chapter 515, specifically Section 515.020. Dangerous Buildings Defined, Section 515.040. Standards For Repair, Vacation or Demolition, Section 515.060. Duties of Building Official — Procedure and Notice, Section 515.080. Additional Duties of The Building Official, are hereby enacted with amendments as set forth below with new material set out in red and deleted material struck as follows:

Chapter 515 DANGEROUS BUILDINGS

Section 515.010. Purpose and Scope. [R.O. 2006 §515.010]

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 Osage Beach, Missouri.

Section 515.020. Dangerous Buildings Defined. [R.O. 2006 §515.020]

- A. 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~~ or otherwise detrimental 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 are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this City.

Section 515.030. Dangerous Buildings Declared Nuisance. [R.O. 2006 §515.030]

All dangerous buildings or structures, as defined by Section 515.020 of this Chapter, are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished as provided herein.

Section 515.040. Standards For Repair, Vacation or Demolition. [R.O. 2006 §515.040]

A. The following standards shall be followed in substance by the Building Official or Building Inspector 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 the public or its occupants, it shall be ordered to be vacated and repaired. An order to vacate and repair (or demolish) may include a requirement to close and secure any or all openings when necessary to protect citizens prior to repair (or demolition). When the Building Official deems it necessary:
 - a. Exterior openings are to be closed as approved by the Building Official.
 - b. Material missing or broken shall be replaced by similar construction or may be replaced by solid wood construction of exterior grade plywood at least one-half inch thick or by equivalent materials approved by the Building Official. Particle board, wafer board, Masonite or other similar materials shall not be used for the purpose of securing a structure.
 - c. Any material used to close openings in exterior walls of open buildings shall be installed in a workmanlike manner in accordance with recognized standards of the construction industry.
 - d. All loose and hanging exterior parts shall be removed.
 - e. All debris shall be removed from the interior and exterior of the premises.
 - f. The property shall be maintained in accordance with the requirements of this chapter.
 - g. Any Person notified to close and secure under this subsection shall secure the building within 10 days.
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 515.050. Building Official. [R.O. 2006 §515.050]**~~

~~All Building Officials shall be the Building Official(s) within the meaning of this Chapter.~~

Section 515.060. Duties of Building Official — Procedure and Notice. [R.O. 2006 §515.060]

- A. The Building Official(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 Official 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 Camden/Miller County, of any building or structure found by him/her to be a dangerous building or structure within the standards set forth in Section 515.020. 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 Camden/Miller 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 Official 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 Official and testify as to the condition of dangerous buildings.
 8. ~~Immediately report to the Building Official concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Building Official may~~ Direct that such building, **found to be inherently dangerous and that he/she determined to be a nuisance per se**, be marked or posted with a written notice ~~reading substantially as follows~~ **declaring the building to be dangerous and unsafe for human occupancy or use.**

~~“This building has been found to be a dangerous building by the Building Official. This notice is to remain on this building and/or property until it is repaired, vacated or demolished that has been given the owner occupant, lessee, mortgagee interest in said building as shown by the land records of the Recorder of Deeds of Camden/Miller County. It is unlawful to remove this notice until such notice is complied with.”~~

Section 515.070. (Reserved)

Section 515.080. Additional Duties of The Building Official. [R.O. 2006 §515.080]

A. The Building Official shall have the powers and duties pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter and cause the Building Official ~~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 Official shall cause an inspection to be made forthwith. If the Building Official deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Official may request an inspection and report be made by any other City department or retain services of an expert whenever the Building Official deems such service necessary.
2. Upon receipt of a report from the Building Official indicating failure by the owner, lessee, occupant, mortgagee, agent, or other persons(s) having an 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, hold a hearing giving the affected parties full and adequate hearing on the matter.
3. Give written notice of said hearing, 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 Camden/Miller County, who may appear before the Building Official on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Official's notice as provided herein. Any party may be represented by counsel and all parties shall have an opportunity to be heard.
4. Make written findings of fact from the evidence offered at said hearing as to whether the building in question is a dangerous building within the terms of Section 515.020 of this Chapter.
5. 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 Official shall issue an order based upon 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 Camden/Miller 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 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. 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 be issued.
6. If the owner, occupant, mortgagee, or lessee fails to comply with the order within thirty (30) days, the Building Official ~~shall~~ ~~may~~ cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant. If the Building Official or other designated officer or officers issues an order whereby the building or structure is demolished, secured, or repaired, or the property is cleaned up, 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 515.090, 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 the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid. Said tax bill or assessment shall bear interest at a rate of eight percent (8%) per annum until paid.

Section 515.090. Insurance Proceeds — How Handled. [R.O. 2006 §515.090]

- A. 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 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 (6) of Section 515.080. If the City has proceeded under the provisions of Subsection (6) of Section 515.080, all monies in excess of that necessary to comply with the provisions of Subsection (6) of Section 515.080 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.
- 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 the date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- C. This Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- D. 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 Official may certify that in lieu of payment of all or part of the covered claim payment 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 Official 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 for in this Subsection.

Section 515.100. Appeal. [R.O. 2006 §515.100]

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 Camden/Miller County, may appeal such

decision to the Circuit Court of Camden/Miller 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 515.080 hereof. Otherwise, the appeal shall be made pursuant to the procedures provided for in Section 536.150, RSMo.

Section 515.110. Emergencies. [R.O. 2006 §515.110]

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 Official shall report such facts and the Building Official 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 Sections 515.080 and 515.090.

Section 515.120. Violations — Disregarding Notices or Orders. [R.O. 2006 §515.120]

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 Official 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 an ordinance violation 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 Official may be deemed a separate offense.

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgement or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 4. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 5. That this Ordinance shall be in full force and effect from and after the date of passage and approval by the Mayor.

READ FIRST TIME: July 15, 2021

READ SECOND TIME: August 5, 2021

I hereby certify that Ordinance No.21.43 was duly passed on August 5, 2021, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 4

Nays: 0

Abstentions: 0

Absent: 2

This Ordinance is hereby transmitted to the Mayor for his signature.

August 5, 2021
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Edward B. Rucker
Edward B. Rucker, City Attorney

I hereby approve Ordinance No.21.43.

John Olivarri
John Olivarri, Mayor

August 5, 2021
Date

Tara Berreth
Tara Berreth, City Clerk