

Chapter 20.04

DANGEROUS BUILDING CODE

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20.04.010 **Uniform Code for the Abatement of Dangerous Buildings (1994 Edition) Adopted.**

(a) Except as hereinafter provided by specific change, the Uniform Code for the Abatement of Dangerous Buildings (1994 edition), hereinafter Uniform Code for the Abatement of Dangerous Buildings, is hereby adopted, one copy of which, in book form, has been filed in the office of the City Clerk for the use of and examination by the public and is the edition referred to hereinafter throughout this chapter.

(b) The following word and phrase substitutions are made in the Uniform Code for the Abatement of Dangerous Buildings wherever they appear:

For the Word or Phrase	Substitute
Building Official	Director of Building and Safety or the authorized representative thereof
City Health Officer	Health Director
City of. . .	City of Lincoln
County Recorder	Register of Deeds for Lancaster County, Nebraska
Fire Marshal	Director of Building and Safety or Chief Fire Inspector

(Ord. 19571 §1; July 11, 2011: prior Ord. 16964 §1; April 8, 1996: Ord. 16214 §1; September 8, 1992: Ord. 15883 §1; May 13, 1991: Ord. 14837 §14; February 29, 1988: Ord. 14437 §1; July 21, 1986).

20.04.020 Section 201.3 Amended; Right of Entry.

Section 201.3 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

201.3. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Building Official or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous, or hazardous, the Building Official may enter such building or premises to inspect the same or to perform any duty imposed upon the Building Official by this code, provided that all said entries shall be done in accordance with the provisions of Chapter 1.20 of the Lincoln Municipal Code or other applicable law.

When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this code.

This right of entry shall extend to the officers named in Section 201.2 and their authorized inspection personnel. (Ord. 19571 §2; July 11, 2011: prior Ord. 16964 §2; April 8, 1996: Ord. 15883 §2; May 13, 1991: Ord. 14437 §1; July 21, 1986).

20.04.025 Section 202 Amended; Abatement of Dangerous Buildings.

Section 202 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

Sec. 202. All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 401 of this code. It is not a defense to such determination that the building is boarded up or otherwise enclosed so as to prevent access to the building. Responsibility for repairs, rehabilitation, demolition, or removal of a dangerous building shall be on the owner of said building, regardless of the cause of the damage. Failure of the owner of a dangerous building to initiate, carry out, or complete repairs, rehabilitation, demolition, or removal of a dangerous building shall constitute good cause for the Building Official to cause the demolition of the dangerous building. (Ord. 19571 §3; July 11, 2011: prior Ord. 15937 §1; August 5, 1991).

20.04.030 Section 205.1 Amended; Board of Appeals; General.

Section 205.1 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

Section 205.1. Board of Appeals; General. In order to provide for final interpretation of the provisions of this code and to hear appeals provided for hereunder, there is hereby established a Dangerous Buildings Code Board of Appeals consisting of three members who are not employees of the city. The Building Official shall be an ex officio member of and shall act as secretary to said board. Members of the board shall be appointed by the Mayor and shall serve staggered terms of three years. The board may adopt reasonable rules and regulations for the conduct of its business

and shall render all decisions and findings in writing to any appellant with a copy to the Building Official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the Building Official who shall make them freely accessible to the public. (Ord. 19962 §2; December 16, 2013: prior Ord. 16964 §3; April 8, 1996: Ord. 15883 §3; May 13, 1991: Ord. 14437 §3; July 21, 1986).

20.04.040 Section 301 Amended; Definitions.

Section 301 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

301 Definitions. For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Property Maintenance Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, unabridged, copyright 1986, shall be accepted as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

Building Code is the International Building Code as amended and adopted by the City of Lincoln, Nebraska.

Dangerous Building is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.

Property Maintenance Code is the International Property Maintenance Code as amended and adopted by the City of Lincoln, Nebraska. (Ord. 19571 §4; July 11, 2011: repealed by Ord. 16964 §4; April 8, 1996: Ord. 15883 §4; May 13, 1991: Ord. 14437 §4; July 21, 1986).

20.04.041 Section 401.2 Amended; Notice and Order.

Section 401.2 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

401.2 Notice and Order. The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order described herein shall constitute the proceedings to cause the repair, vacation, or demolition referred to in Section 401. The notice and order shall contain the following:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
3. A statement of the action required to be taken as determined by the Building Official.

3.1 Except as set forth in Section 20.04.054, the owner shall have the responsibility to repair or demolish the dangerous building for so long as the owner is in full compliance with all provisions of this code. Failure to initiate or maintain compliance herein may result, in the discretion of the Building Official, in the City demolishing the dangerous building.

3.2 If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such reasonable time as shall be determined by the Building Official

and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.

3.3 If the Building Official has determined that the building or structure can be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

3.4 If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine is reasonable (not to exceed sixty days from the date of the order); that all required permits be secured therefor within such reasonable time as shall be determined by the Building Official, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

3.5 If the Building Official has determined that the building or structure has been so damaged by fire, wind, earthquake, explosion, or flood or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children, (b) a harbor for vagrants, criminals, or immoral persons; or as to (c) enable persons to resort there for the purpose of committing unlawful or immoral acts the order shall, in addition to any order to repair, vacate, or demolish such building or structure, require that the building or structure be secured within such time as the Building Official shall determine is reasonable to prevent unauthorized access into the building or structure until such time as the required repair or demolition work is completed.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified or if the building or structure is not secured within the time specified, the Building Official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Board of Appeals, provided the appeal is made in writing as provided in this code and filed with the Building Official by the date set forth in the notice; and (ii) that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter. Unless an emergency is declared by the Mayor and Chairman of the City Council, an appeal shall stay any required action under the Building Official's order until after the appeal has been heard and decided by the Board of Appeals.

6. In the event that any building determined to be dangerous under this code threatens to or actually impedes, interferes with, disrupts, or blocks operation of any City utility, street, or other City owned property due to the dangerous nature of the building, the owner of said property shall be responsible for fees to be imposed by the City department affected by any such actual or threatened impedance, interference, disruption, or blockage of a City utility, street, or other City owned property. Such fees shall be assessed as a lien on the property pursuant to and in the same manner as set forth in Section 20.04.070.

7. In the event that repairs, rehabilitation, demolition, or removal stops, halts, or ceases for any cause not deemed reasonable by the Building Official, the Building Official may proceed to cause the work to be done and charge the cost thereof against the property by assessment of a lien and against the owner. (Ord. 19571 §5; July 11, 2011: prior Ord. 16964 §5; April 8, 1996: Ord. 15937 §2; August 5, 1991: Ord. 15883 §5; May 13, 1991).

20.04.042 Section 403 Amended; Repair; Vacation and Demolition.

Section 403 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

Sec. 403. The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation, or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this ordinance either shall be repaired in accordance with the current building code or shall be demolished at the option of the building owner.

2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property, or safety of the public or its occupants, it shall be ordered to be vacated.

3. The determination of whether the building is a dangerous building shall be made without regard to temporary security measures to prevent access to the building. (Ord. 16964 §6; April 8, 1996; prior Ord. 15937 §3; August 5, 1991).

20.04.043 Section 404.1 Amended; Notice to Vacate; Posting.

Section 404.1 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

Section 404.1 Posting. Every notice to vacate shall, in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be in substantially the following form:

WARNING
This Building is Unsafe to Occupy
DO NOT ENTER
It is a misdemeanor to occupy
this building or to remove or
deface this notice.

Date

Building and Safety Dept.
City of Lincoln
441-7521

(Ord. 16964 §7; April 8, 1996; prior Ord. 15883 §6; May 13, 1991).

20.04.045 Section 501 Amended; Appeal, General.

Section 501 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

Section 501 - General.

501.1 Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order of the Building Official under this code by filing at the office of the Building Official a written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the City of Lincoln."
2. A caption reading "Appeal of _____," giving the names of all appellants participating in the appeal.

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The owner shall have the right to appeal any order issued by the Building Official for repairs or demolition of a dangerous building, except for emergencies as set forth in Section 20.04.054. The Building Official shall determine the length of time to be given for filing an appeal; provided, the time for filing an appeal shall not be less than two days, nor more than 14 days. The Building Official's decision on the length of time to file an appeal shall be based exclusively on the threat or likelihood that substantial injury or damage may occur to persons or property during the appeal process, including, but not limited to interruption of, or interference with, City owned streets, utilities, or other infrastructure. No appeal period of less than seven days shall be permitted unless the Building Official consults with the City Attorney, or his or her designee, prior to determining the appeal period. In the event the Mayor and Chairman of the City Council declare an emergency as set forth in Section 20.04.054, no right to an appeal shall be available to the owner. Once an appeal is filed, all actions ordered by the Building Official shall be stayed until the appeal has been heard and decided by the Board of Appeals. Failure to file an appeal shall constitute a waiver of all rights to an administrative hearing and determination of the matter. Following a decision on the appeal, either the owner or the City may seek further review or hearing in a court of competent jurisdiction as may be allowed by law.

501.2 Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall not be less than two days nor more than 14 days from the date the appeal was filed with the Building Official. Written notice of the time and place of the hearing shall be given not less than two days prior to the date of the hearing to each appellant by the secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Attendance at the hearing by the appellant shall satisfy proper notice of the hearing. (Ord. 19571 §6; July 11, 2011).

20.04.050 Section 603.1 Amended; Subpoenas.

Section 603.1 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

Section 603.1. Subpoenas. A member of the board or any party may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing. The issuance and service of such subpoena shall be obtained upon the filing in the office of the Building Official a written request directed to the Mayor for such issuance and service. Said written request shall include an affidavit which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his or her possession or under his or her control. A subpoena need not be issued when the affidavit is defective in any particular. In

cases where a hearing is referred to an examiner, all subpoenas shall be obtained from the Mayor through the examiner. (Ord. 16964 §8; April 8, 1996: prior Ord. 15883 §7; May 13, 1991: Ord. 14437 §5; July 21, 1986).

20.04.051 Section 701.3 Amended; Failure to Commence Work.

Section 701.3 of the Uniform Code for the Abatement of Dangerous Buildings is hereby amended to read as follows:

701.3. Failure to Commence Work. Whenever the required repair or demolition is not commenced within ten days after any final notice and order issued under this code becomes effective:

1. The Building Official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

WARNING
This Building is Unsafe to Occupy
DO NOT ENTER
It is a misdemeanor to occupy
this building or to remove or
deface this notice.

Date

Building and Safety Dept.
City of Lincoln
441-7521

2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Building Official have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code.

3. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. The Building Official may also cause the building to be secured to prevent unauthorized access into the building or structure until such time as the required repair or demolition work is completed. Any such repair or demolition work or work to secure the building or structure shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto. (Ord. 16964 §9; April 8, 1996: prior Ord. 15937 § 4; August 5, 1991: Ord. 15883 §8; May 13, 1991).

20.04.052 Section 701.4 Added; Interference with City Operations.

Section 701.4 is added to the Uniform Code for the Abatement of Dangerous Buildings to read as follows:

Sec. 701.4 Interference with City Operations. In the event that any building determined to be dangerous under this code threatens to or actually impedes, interferes with, disrupts, or blocks operation of any City utility, street, or other City owned property due to the dangerous nature of the building, the owner of said property shall be responsible for fees to be imposed by the City department affected by any such actual or threatened impedance, interference, disruption, or blockage of a City utility, street, or other City owned property. Such fees shall be assessed as a lien on the property pursuant to and in the same manner as set forth in Section 20.04.070. Nothing herein shall be interpreted to mean that the exclusive remedy for the City is foreclosure of the lien on the property. (Ord. 19571 §7; July 11, 2011).

20.04.053 Section 701.5 Added; Repair or Demolition Stoppages.

Section 701.5 is added to the Uniform Code for the Abatement of Dangerous Buildings to read as follows:

701.5 Repair or Demolition Stoppages In the event that repair, rehabilitation, demolition, or removal stops, halts, or ceases for any cause not deemed reasonable by the Building Official, the Building Official may proceed to cause the work to be done and charge the cost thereof to the owner, which cost may be assessed as a lien against the property in the same manner as set forth in Section 20.04.070. (Ord. 19571 §8; July 11, 2011).

20.04.054 Section 701.6 Added; Emergency Repair or Demolition.

Section 701.6 is added to the Uniform Code for the Abatement of Dangerous Buildings to read as follows:

701.6 Emergency Repair or Demolition. Following consultation with the City Attorney or his or her designee, the Mayor and Chairman of the City Council may jointly declare an emergency concerning the status or condition of a dangerous building. In that event, the Building Official shall make best efforts to notify the property owner of the dangerous nature of the building. If, in the sole discretion of the Building Official, it is determined that the immediate safety of the public or that significant City owned property is in imminent threat of injury, damage, or destruction, the Building Official may order the immediate repair or demolition of the dangerous building to the extent necessary to remove the threat of imminent danger to the safety of the public or significant City owned property without having notified the owner, provided the Building Official has made best efforts to notify the owner.

The cost of any such action by the Building Official in this section shall be the responsibility of the owner and may be assessed as a lien against the property in the same manner as set forth in Section 20.04.070. In addition to any action authorized herein, the City Attorney may seek any judicial order deemed necessary to carry out the intent of this chapter or to protect public safety and the interests of the City. (Ord. 19571 §9; July 11, 2011).

20.04.055 Section 801.1 Amended; Procedure.

Section 801.1 of the Uniform Code for Abatement of Dangerous Buildings is amended to read as follows:

801.1. Procedure. When any work of repair or demolition or work to secure a building or structure is to be done pursuant to Section 701.3 Item 3 of this code, the Building Official shall issue an order therefor and the work shall be accomplished by personnel of this jurisdiction or by private contract. Plans and specifications therefor may be prepared by said Building Official, or the Building Official may employ such architectural and engineering assistance on a contract basis as

deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedure shall be followed. (Ord. 16964 §10; April 8, 1996: prior Ord. 15883 §9; May 13, 1991: Ord. 14437 §6; July 21, 1986).

20.04.060 Section 907 Amended; Authority for Installment Payment of Assessments with Interest.

Section 907 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

Section 907. Authority for Installment Payment of Assessments with Interest. The City Council, in its discretion, may determine that assessments shall be paid in not to exceed five equal annual installments. The council's determination to allow payment of such assessments in installments and the number thereof shall be adopted by resolution prior to the confirmation of the assessment. Each installment shall bear interest at the rate and in the manner as provided by law. (Ord. 15883 §10; May 13, 1991: prior Ord. 14437 §7; July 21, 1986).

20.04.070 Section 908 Amended; Lien of Assessment.

Section 908 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

Section 908 Lien of Assessment.

908.1 Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessment shall be liens against the lots or parcels of land assessed, respectively, and shall be paramount to all other liens except general taxes. The liens shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Due Date and Delinquent Interest. A single assessment shall be due immediately upon its being placed upon the assessment roll. The first installment of any assessment payable by installments shall be due immediately upon placing such assessment upon the assessment roll. Such assessments and installments thereof shall become delinquent as provided by law for improvement district special assessments. At the time of levying the assessments, the City Council shall fix the rate of interest per annum on unpaid installments which are not delinquent. Installments which are delinquent shall bear interest at the same annual rate as that established by law for delinquent real property tax. (Ord. 16964 §11; April 8, 1996: prior Ord. 15883 §11; May 13, 1991: Ord. 14437 §8; July 21, 1986).