

CHAPTER 23.70 ABATEMENT OF DANGEROUS BUILDINGS.

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Section 23.70.701 Purpose and scope

23.70.701.1 Purpose.

- A. It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the codes, or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants shall be required to be repaired, demolished or removed.
- B. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who shall or should be especially protected or benefited by the terms of this chapter.

23.70.701.2 Scope. The provisions of this chapter shall apply to all dangerous buildings or structures, as defined in section 702, now in existence or which may hereafter become dangerous in this jurisdiction.

23.70.701.3 Abatement of dangerous building standards. All buildings or structures required to be repaired under the provisions of this chapter shall be subject to the provisions of the International Existing Building Code, as adopted by the Municipality of Anchorage.

Section 23.70.702 Definitions.

23.70.702.1 General. For the purpose of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the code. Where terms are not defined, they shall have the ordinary accepted meanings within the context with which they are used. Webster's Dictionary shall be construed 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.

Abatement is the code compliant corrections of all conditions or defects described in section 702, as confirmed by the code official.

Beyond Economic Feasibility to Repair is when the estimated cost of repair exceeds the estimated replacement cost of the entire structure.

Code or Codes are the relevant codes, as adopted by this jurisdiction.

Code Official is the building official or designee.

Dangerous Building is, for the purpose of this chapter, any building or structure with any or all of the conditions or defects hereinafter described to such an extent the condition endangers life, limb, health, morals, property, safety, or welfare of the general public or its occupants.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the code for buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent the structural strength or stability thereof is materially less than before such catastrophe and is less than the minimum requirements of the code for buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building or structure, or any member, appurtenance or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the code for such buildings or structures.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar construction.
8. Whenever the building or structure, or any portion thereof, because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building or structure;

- d. The deterioration, decay or inadequacy of its foundation; or
 - e. Any other cause, is likely to partially or completely collapse.
- 9. Whenever, for any reason, the building or structure, or any portion thereof, is unsafe for the purpose of which it is being used.
 - 10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
 - 11. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
 - 12. Whenever the building or structure has been so damaged by fire, wind, earthquake 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
 - c. Enables persons to resort thereto for the purpose of committing unlawful or immoral acts.
 - 13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
 - 14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion, less than sixty-six (66) percent of the
 - a. Strength;
 - b. Fire-resisting qualities or characteristics; or
 - c. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building or structure of like area, height and occupancy in the same location.
 - d. This subsection does not apply to strength required to resist seismic loads.
 - 15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the code official to be unsanitary, unfit for human occupancy or in such a condition it is likely to cause sickness or disease.
 - 16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the code official to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or structure or portion thereof an attractive nuisance or hazard to the public.

Habitual - Customarily, or by frequent practice or use; does not mean entirely or exclusively.

Imminent or Immediate - Near at hand, or if left unattended to on the point of happening; an observable structural, electrical, mechanical or plumbing failure to the extent a reasonable person may believe it poses a serious threat to life and safety.

Record Owner – any legal interest of record disclosed from official public records.

Unfit for Human Occupancy – A building or structure is unfit for human occupancy whenever the code official finds such structure is unsafe, unlawful or because of the degree to which the building or structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the building or structure constitutes a hazard to the occupants of the building or structure or to the public.

Unlawful Building or Structure- is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

Unsafe Building or Structure – is one found to be dangerous to the life, health, property or safety of the public or the occupants of the building or structure by not providing the minimum safeguards to protect or warn occupants in the event of fire, or because such building or structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

Unsafe Equipment – includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the building or structure in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises, building or structure.

Section 23.70.703 Administration.

23.70.703.1 Authority.

- A. The code official is hereby authorized to enforce the provisions of this chapter.
- B. The code official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

23.70.703.2 Extension of time to perform work. Upon receipt of a written request from the person required to conform to a notice and order and by agreement of such person to comply with the notice and order if allowed additional time, the code official may grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said repair, demolition or removal, if the code official determines such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The code official's authority to extend time is limited to the physical repair, demolition or removal of the building or structure and shall not in any way affect the time to appeal the notice and order.

23.70.703.3 Inspections. The health officer, the fire marshal and the code official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

23.70.703.4 Right of entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the code official or the code official's authorized representative has reasonable cause to believe there exists in a building or structure a condition which is contrary to or in violation of this chapter and makes the building or structure dangerous or unlawful, the code official may enter the building or structure at reasonable times to inspect or to perform the duties imposed by this chapter, provided if such building or structure be occupied that credentials be presented to the occupant and entry requested. If such building or structure is unoccupied, the code official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or structure and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

23.70.703.5 Abatement of dangerous buildings. All buildings or structures or portions thereof determined after inspection by the code official to be dangerous or unlawful as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, demolition, or removal in accordance with this code.

23.70.703.6 Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this chapter.

23.70.703.7 Board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals. The board of appeals for these issues is the Board of Building Regulation Examiners and Appeals (Building Board) as defined in section 23.10.204. Appeals to the board shall be processed in accordance with the provisions contained in section 705 of this chapter, and Anchorage Municipal Code of Regulations section 23.10.010.

Section 23.70.704 Notices and orders

23.70.704.1 Commencement of proceedings. When the code official has inspected a building or structure and determined it is a dangerous or unlawful building, the code official shall commence proceedings to cause the repair, demolition, or removal of the building or structure.

23.70.704.2 Notice of violation. All violations noted by the code official shall receive a notice of violation. A notice of violation shall be posted at the location of the building or structure determined by inspection to have a violation. The code official shall give the owner three (3) business days to meet with the code official to determine the extent of the repair, demolition or removal necessary. After the three (3) business days, the code official shall determine if a notice and order shall be issued.

23.70.704.3 Notice and order. The code official shall issue a notice and order directed to the record owner of the building or structure. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the property upon which the building or structure is located.
2. A statement the code official found the building or structure to be dangerous or unlawful with a brief and concise description of the conditions found to render the building or structure dangerous or unlawful under the provisions of section 702.
3. A statement of the action required to be taken as determined by:
 - 3.1 If the code official has determined the building or structure must be repaired or removed, the order shall require all required permits be secured therefore and the work physically commenced within sixty (60) days from the date of the order. The repairs shall be completed within such time as the code official shall determine is reasonable under all the circumstances and specified in the Notice and Order.

- 3.2 If the code official has determined the building or structure must be vacated, the order shall require the building or structure shall be vacated within a time certain from the date of the order as determined by the code official to be reasonable and specified in the Notice and Order. The notice to vacate shall be posted as per section 705.
- 3.3 If the code official has determined the building or structure must be demolished, the demolition shall be completed within such time as the code official determines is reasonable and shall be specified on the Notice and Order.
- 4. Statements advising if any required repair or demolition work is not commenced within the time specified, the code official:
 - a. May order the Notice to Vacate as per section 705, and
 - b. May proceed with causing the repair, demolition or removal as per section 708.
- 5. Statements advising:
 - a. The notice and order may be appealed to the board of appeals as per section 706; and
 - b. Failure to appeal shall constitute a waiver of all right to an administrative hearing and determination of the matter.

23.70.704.4 Service of notice and order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property. The failure of the code official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

23.70.704.5 Method of service.

- A. Such notice shall be deemed to be properly served if a copy thereof is:
 - 1. Delivered personally;
 - 2. Sent by certified or first-class mail addressed to the last known address, return receipt requested; or
 - 3. Posted in a conspicuous place in or about the structure affected by such notice.

23.70.704.6 Recordation of notice and order.

- A. If the order has not been complied with in the time specified therein, and no appeal has been properly and timely filed, the code official shall file in the Anchorage District Recorder's Office a certificate describing the property and certifying:
 - 1. The building or structure is a dangerous or unlawful building; and
 - 2. The owner has been so notified.
- B. When the corrections ordered have been completed or the building or structure demolished so it no longer exists as a dangerous or unlawful building or structure on the property described in the certificate, the code official shall file a new certificate with the Anchorage District Recorder

certifying the building or structure has been removed, demolished or all required repairs have been made so the building or structure is no longer dangerous or unlawful.

23.70.704.7 Transfer of ownership. It shall be unlawful for the owner of any building or structure who has received a notice and order or notice of violation to sell, transfer, mortgage, lease or otherwise dispose of such building or structure to another until the provisions of the notice and order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice and order or notice of violation issued by the code official and shall furnish the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice and order or notice of violation fully accepting the responsibility without condition for making corrections or repairs required by such notice and order or notice of violation.

Section 23.70.705 Notice to vacate.

23.70.705.1 Notice to vacate. The code official may post a building or structure with a notice to vacate if the building or structure is determined by the code official to contain an imminent or immediate life safety violation or condition. A notice to vacate shall be served under the same requirements for a notice and order as section 704.

23.70.705.2 Posting. Every notice to vacate shall, in addition to being served as provided in section 705.1, be posted at or upon each exit of the building or structure and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building or structure,
or to remove or deface this notice.
CODE OFFICIAL**

23.70.705.3 No occupancy compliance. Whenever such notice is posted, the code official shall include a notification thereof in the notice and order issued under section 704, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building or structure so posted, except entry may be made to repair, demolish or remove such building or structure under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal are completed and a certificate of occupancy issued pursuant to the provisions of the code. The code official may assess fines as per 23.10.Table 3-N for each building code violation and the hourly rate for the code officials time as per the code abatement fee for failure to comply.

23.70.705.4 Code compliance inspection. All buildings or structures posted with a notice to vacate shall have a code compliance inspection performed before any permit for repair or removal shall be issued.

Section 23.70.706 Appeal.

23.70.706.1 Form of appeal. Any person entitled to service under sections 704 or 705 may appeal any notice and order or any action of the code official under this chapter by submitting an application and the filing fee for an appeal to the Board of Building Regulation Examiners and Appeals at the office of the code official. The appeal shall be filed within thirty (30) days from the date of the service of such order or action of the code official; provided, however, if the building or structure is in such condition as to make it immediately dangerous to the life, limb, health, morals, property, safety or welfare of the general public or their occupants and is ordered vacated and is posted in accordance with section 705, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the code official.

23.70.706.2 Processing of appeal. Upon receipt of any appeal filed pursuant to this section, the code official shall present it at the next regular or special meeting of the board of appeals.

23.70.706.3 Scheduling and noticing appeal for hearings. 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 ten (10) days nor more than sixty (60) days from the date the appeal was filed with the code official. Written notice of the time and place of the hearing shall be given at least ten (10) 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.

23.70.706.4 Effect of failure to appeal. Failure of any person to file an appeal in accordance with the provisions of section 706 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

23.70.706.5 Scope of hearing of appeal. Only those matters or issues specifically raised in the notice and order or actions by any persons with authority under this chapter shall be considered in the appeal hearing.

23.70.706.6 Staying of order under appeal. Except for notice to vacate order made pursuant to section 705, enforcement of any notice and order of the code official issued under this chapter shall be stayed during the appeal therefrom which is properly and timely filed.

Section 23.70.707 Performance of work, repair, demolition or removal by owner

23.70.707.1 Repair, demolition or removal by owner. The following standards shall be followed by the code official in allowing the owner to complete the repair, demolition or removal of any dangerous building or structure:

1. Any building or structure declared a dangerous building or structure under this chapter shall be made to comply by the owner with the following:
 - 1.1 The building or structure shall be repaired in accordance with the code applicable to the type of substandard conditions requiring repair. All work shall be permitted and inspected according to the code; or
 - 1.2 The building or structure shall be demolished at the option of the owner. A demolition permit shall be obtained prior to the work being performed; or
 - 1.3 The building or structure shall be removed at the option of the owner. If building or structure is to be moved to another location within the jurisdiction, a code compliance inspection shall be performed prior to the removal.

Section 23.70.708 Enforcement by code official

23.70.708.1 General. After any notice and order, board of appeals decision, contract agreement, or extension has been finalized, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order.

23.70.708.2 Failure to obey order. If, after any notice and order, board of appeals decision, contract agreement, or extension has been made final, the person to whom such order is directed shall fail, neglect or refuse to comply with such order, the code official may institute any appropriate action to abate such building or structure as a public nuisance.

23.70.708.3 Failure to commence work.

- A. Whenever the required repair, demolition or removal of building or structure is not commenced within time specified under the notice and order, appeals board action, contract agreement or extension the following becomes effective:
 1. The code official shall cause the building or structure described in such notice and order to be vacated as per section 705.
 2. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the code official are completed and a certificate of occupancy issued pursuant to the provisions of this code.
 3. The code official may, in addition to any other remedy provided herein, cause the building or structure to be repaired, demolished or removed according to this chapter. The cost of any such repairs,

demolition, or removals shall be recovered in the manner provided in this chapter.

23.70.708.4 Personal property. Prior to the time of repair, demolition or removal, the code official has the authority to enter the dangerous building or structure to make an inspection for any personal property of value abandoned on the premises. If such property is discovered, an inventory shall be taken and made part of the case file. If the owner fails to remove the discovered property prior to the demolition, the owner may redeem said property only under the conditions set forth below. At the time of demolition, the demolition contractor has the authority to remove the inventoried abandoned property from the premises and store the same safely. The record owner of the demolished property may, within thirty (30) days after the date of demolition, redeem the stored property upon the payment of a reasonable storage fee to the demolition contractor. If the record owner of the demolished building or structure fails to redeem the stored property, it shall become the property of the demolition contractor who shall have no recourse against the record owner of the demolished building or structure or the Municipality for any storage charges.

23.70.708.5 Repair, demolition or removal by code official. When any work, repair or demolition is to be done pursuant to section 708.3, the code official shall cause the required work to be accomplished by personnel of this jurisdiction or by private contract. All necessary permits shall be obtained prior to any work. If any part of the work is to be accomplished by private contract, standard Municipality of Anchorage contractual procedures shall be followed.

23.70.708.6 Interference with repair, demolition or removal work prohibited. No person shall obstruct, impede or interfere with the code official engaged in the work of repairing, demolishing or removing any such building or structure, pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

Section 23.70.709 Emergency abatement by code official

23.70.709.1 Summary abatement. The code official, with written approval of the city manager, may abate any public nuisance without notice in an emergency where the lives or safety of the public is endangered and where immediate action is necessary and timely notice cannot be given. All other abatement proceedings, except the necessity and the manner and method of giving notice shall apply to the nuisance summarily abated, including the recovery of the costs of the summary abatement.

Section 23.70.710 Recovery of costs by code official

23.70.710.1 Responsibility for payment. The responsibility for payment of the charges for all expenses incurred during abatement by code official as set forth in

this chapter shall rest solely upon the owners of the property upon which the abatement occurred. Owners, as used in this section, includes the record owner upon the date of service of notice and order as served under section 704, jointly and severally with any subsequent owner until all costs assessed under this chapter are paid in full.

23.70.710.2 Enforcement. The Municipality shall have the right to bring suit for the collection of charges for abatement as set forth in this chapter plus costs and attorney's fees against any or all of the parties responsible for payment.

23.70.710.3 Account of expense.

- A. The code official shall cause to be kept an account of the cost, including incidental expenses, incurred by the Municipality in the repair, demolition or removal of any building or structure done pursuant to the provisions of this chapter. Upon the completion of the work for repair, demolition or removal of the building or structure, the code official shall forward one or more bills for collection to the record owner as identified in this chapter, specifying the nature and costs of the work performed. Such costs shall be considered charges against the property and may be collected pursuant to this chapter or through any other legal means.
- B. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the Municipality in the preparation of notices, specifications and contracts, overhead for account work, work inspection, and the cost of printing and mailing notices required hereunder.
- C. If the bill for collection remains unpaid thirty (30) days after mailing of notice to the record owner(s), the Municipality shall be entitled to late fees on the amount billed from the date of mailing until paid at the rate prescribed by law for delinquent real property taxes. Any payments made or received shall be first applied to accumulated late fees.

23.70.710.4 Lien procedure. Charges for the repair, demolition or removal of any building or structure done pursuant to the provisions of this chapter become a lien upon the real property upon which the building or structure is or was located. The code official shall record a claim of lien at the Anchorage District Recorder's Office. The Lien placed shall meet all Alaska Statutes and municipal codes.

23.70.710.5 Bill to collections. When charges for the repair, demolition or removal of any building or structure remain unpaid after thirty (30) days from the date the code official forwards an invoice for payment to the record owner as identified in this chapter, the code official shall forward the bill to collections as per MOA policies and procedures.

23.70.710.6 Collection of abatement charges. The lien created herein may be enforced as provided in Alaska Statute. The enforcement of the lien is a cumulative remedy and does not bar the collection of the charges for abatement as provided in section 709.