

ORDINANCE #14-0401

AN ORDINANCE OF THE CITY OF BELLS PROVIDING FOR AND REGULATING THE ALTERATION, REMOVAL, DEMOLITION, OCCUPANCY, LOCATION AND MAINTENANCE OF BUILDINGS AND STRUCTURES INSIDE THE CITY LIMITS OF THE CITY OF BELLS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLS:

THIS ORDINANCE IS HEREBY ADOPTED BY THE CITY OF BELLS FOR THE PURPOSE OF ESTABLISHING RULES AND REGULATIONS FOR THE ALTERATION, REMOVAL, DEMOLITION, USE AND OCCUPANCY, LOCATION AND MAINTENANCE OF BUILDINGS AND STRUCTURES INSIDE THE CITY LIMITS OF THE CITY OF BELLS.

Definitions:

The following words, terms, and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning –

BUILDING OFFICIAL shall mean the building official of the City or his authorized agents, assistants, deputies, or representatives.

DILAPIDATED STRUCTURE means a building or structure which has been neglected of repairs or maintenance necessary to keeping the building or structure in compliance with the applicable building and housing codes of the City, the extent of such neglect being that the cost of necessary repairs to gain compliance with such codes exceeds the present value of the building or structure without regard to the value of the land.

FIRE CHIEF shall mean the Chief of the Fire Department of the City or his authorized agents, assistants, deputies, or representatives.

NUISANCE means a nuisance in fact and, if left unabated, endangers the possession or use of adjoining property or creates an unreasonable danger to the public health and safety.

Purpose of Ordinance:

It is the purpose of this Ordinance to provide a just, equitable, and practicable, method, to be cumulative with and in addition to any other remedy available at law, whereby buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, or are a menace to the life, limb, health, property, safety, and general welfare of the people of the City of Bells, or which constitute a fire hazard, may be required to be repaired, vacated, or demolished.

Declaration of Nuisance; duty of Building Official

- A) In the event of an emergency which, in the opinion of the Building Official, creates imminent danger to human life or health, the building official may declare a building or structure, which is structurally unsafe, a fire hazard or otherwise dangerous, to be a hazard to the public health and safety.
- B) The Building Official shall promptly cause such buildings, structure, or portion thereof to be made safe or removed. For this purpose, the Building Official may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose, may close a public or private way. Such costs incurred shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

DANGEROUS BUILDINGS DESIGNATED

For the purpose of this Ordinance, any building or structure that has one (1) or more of the following conditions or defects is a dangerous building.

- 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, for all persons housed or assembled therein who would be required to, or might, use such door, aisle, passageway, stairway, or other means of exit.
- 2) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 ½) times the working stress or stresses allowed in the building code.

- 3) Whenever any portion thereof has been damaged by earthquake, wind, flood, or by any other cause in such a manner that the structural strength or stability thereof is appreciably less than it was before such catastrophe and is less than the minimum requirements of the building code for a building of similar structure, purpose, or location.
- 4) Whenever any portion or member or appurtenance thereof is likely to fall or to become detached or dislodged or to collapse and thereby injure persons or damage property.
- 5) Whenever any portion of a building or any member, appurtenance, or ornamentation, on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place as to be capable of resisting a wind pressure of one-half (1/2) that specified in working stresses permitted in the building Code.
- 6) Whenever any portion thereof has settled to such an extent that the walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new construction.
- 7) Whenever the building or structure or any portion, thereof, because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or giveaway.
- 8) Whenever for any reason whatsoever the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is used.
- 9) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle third of the base.

- 10) Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more of damage or deterioration to the member or members, or fifty (50) percent of damage or deterioration or a non-supporting, enclosing or outside wall or covering.
- 11) Whenever the building or structure has been damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals, or immoral persons, or to enable persons to resort thereto for the purpose of committing nuisance or unlawful or immoral act.
- 12) Any building or structure which has been constructed or which now exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure of the building code or of any provisions of the fire prevention ordinances, when so determined and reported by the Fire Marshall, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings.
- 13) 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 member less than sixty-six (66) percent of the strength, fire-resisting qualities or characteristics required by law or ordinance in the case of a newly constructed building of like area, height, and occupancy in the same location.
- 14) Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease, when so determined by the health officer, or is likely to work injury to the health, safety, or general welfare of those living within.

- 15) Whenever a building or structure, used or intended to be used for dwelling purposes, has light, air, and sanitation facilities inadequate to protect the health, safety, or general welfare of persons living within.
- 16) Whenever any building or structure by reason of obsolescence, dilapidated conditions, deterioration, damage, electric wiring, gas connections, heating apparatus, or other cause, is in such condition as to be a fire hazard and is so situated as to endanger life or provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.

NOTICE AND ORDER TO REPAIR, VACATE, OR DEMOLISH GENERALLY.

- A) **GENERALLY.** Upon his own finding that a building or structure is a fire hazard or is unsafe or is dilapidated or is dangerous or is a hazard to public safety or health, or upon the complaint to the building official by an person that a building or structure is a fire hazard or is unsafe or is dilapidated or is dangerous or is a hazard to the public safety or health, the building official shall prepare a notice in writing stating in detail the conditions which render the building or structure, or portion thereof, to be unsafe, dangerous, or a hazard and ordering the repair, vacation, and repair and demolition thereof within sixty (60) days from the date of the personal service or mailing of notice. The chief building official may, when it is determined that additional time will be necessary to complete the work ordered, extend such time for an additional thirty day period upon the application of the owner or person charged with the duty of complying with such order.
- B) **IDENTIFICATION OF PROPERTY.** The notice provided for above shall set forth the street address and a description legally sufficient for identification of the building or structure and the premises upon which the building or structure is located.

- C) UPON WHOM TO BE SERVED. The building official shall cause copies of the notice provided for herein to be served upon each of the following: The person, if any, in real or apparent charge and control of the premises involved; the owner of record title; the holder of any mortgage, trust deed, or other lien or encumbrance of record; the owner or holder of any lease of record; the record holder of any other estate or interest in or to the building or structure or the land upon which it is located.
- D) MANNER OF SERVICE; FAILURE TO RECEIVE. The notice provided for herein may be served personally upon any person entitled thereto if he can be found within the city limits. Service may be made by depositing a copy of such notice in the United States Post Office, property enclosed in a sealed envelope and with the postage thereon fully prepaid. Such mail shall be registered or certified, return receipt requested, and addressed to the person entitled thereto at the address of such person as it appears on the last tax assessment roll of the city. If no such address so appears or is unknown to the Fire Chief or the building official, a copy of the notice shall be addressed to such person at the address of the building or structure involved. Service by registered or certified mail shall be complete on the day of mailing. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this ordinance.
- E) POSTING OF COPY. One (1) copy of the notice provided for herein shall be conspicuously posted on the building or structure involved.
- F) AFFIDAVITS AS TO SERVE AND POSTING, RECEIPT CARD. Upon giving notice as provided herein, the building inspector shall file with the city clerk an affidavit thereof certifying to the time and manner in which such notice was given and posted. He shall also file therewith any receipt card that may have been returned to him in acknowledgement of the receipt of such notice by registered or certified mail.

APPEALS FROM ORDERS TO REPAIR, VACATE, OR DEMOLISH

A) GENERAL PROCEDURE. Any person aggrieved by any order of the building official to repair, vacate, and repair, or demolish any building or structure or portion thereof may appeal such order to the City Council. The appeal shall be in writing and shall state the substance of the order appealed, and shall be submitted to the chief building official within ten (10) days from the date of personal serving or mailing of the notice or order to repair, vacate, and repair, or demolish, which is being appealed. The chief building official shall set the matter for hearing before the city council. Notice of the date, hour, and place of the hearing shall be posted and served at least ten (10) days before the date set for the hearing in the manner and upon the persons specified in "Notice and order to repair, vacate, or demolish generally section. The notice shall order all interested parties who desire to be heard to appear and show cause, if any they have, why the building or structure or portion thereof involved in the proceedings should not be repaired, vacated and repaired, or demolished.

B) HEARING. At the time stated in the notice, the City Council shall hold a hearing and hear and consider any relevant evidence offered by the Fire Chief or building official, or both, as well as the owner, occupant, or person in charge and control, mortgagee, or beneficiary under any deed or trust, lessee or any other person having any estate or interest in the building or structure, pertaining to the matters set forth in the notice to repair, vacate, and repair, or demolish.

C) FINDINGS OF FACT AND DECISION. Within ten (10) days after the conclusion of the hearing, the City Council shall make written findings of fact as to whether or not the building or structure or portion thereof is unsafe, dilapidated, or a hazard and shall render its decision. If it finds that the building or structure or portion thereof is unsafe or a hazard, it may order that the building or structure be repaired or vacated and repaired. In the event that the council finds the building or structure shall be dilapidated, and cannot reasonably be repaired, and constitutes a nuisance, the council may order the building or structure demolished, setting forth

orders as to the manner and time in which demolition is to be accomplished. All decisions and findings of the council shall be made in writing to the building official, with a duplicate copy of such decisions and findings being sent to the appellant.

D) ORDER OF COUNCIL – CONTENTS. The order of the council shall:

- 1) Set forth the information required above
- 2) Contain a statement of the particulars that render the building or structure unsafe, a hazard, or dilapidated.
- 3) Contain a statement of the repairs required.
- 4) Specify the time within which work required must be commenced, which shall not be less than ten (10) days after the issuance of the order.
- 5) Specify a reasonable time within which the work shall be completed.

E) POSTING AND SERVICE. The building official shall cause copies of the order rendered under this section to be posted on the building or structure involved and served in the manner and upon the persons specified above.

FAILURE TO COMPLY WITH ORDERS GIVEN UNDER THIS ORDINANCE AND PENALTY FOR VIOLATION.

- A) The owner or other person having charge and control over any building or structure determined by the building official or, upon appeal, by the City Council to be unsafe and a public nuisance, who shall fail to comply with any order to repair, vacate and repair, or demolish such building or structure or any portion thereof, shall be guilty of a Class C misdemeanor.
- B) The occupant or lessee in possession, who fails to comply with any order to vacate any building or structure or any portion thereof in accordance with any order given as provided for in this ordinance, shall be guilty of a Class C misdemeanor.

- C) Whenever in this ordinance an act is prohibited or declared to be unlawful, the violation of any such provision of this ordinance shall be punished by a fine not exceeding two thousand dollars (\$2000). Each day any violation of this ordinance shall continue shall constitute a separate offense.

ACTION BY CITY

- A) **AUTHORITY TO VACATE OR DEMOLISH.** Whenever an order to repair, vacate and repair, or demolish any building or structure or any portion thereof has not been obeyed within the time set by the chief building official or upon appeal, by the City Council the chief building official or the City Council shall have the power, in addition to any other remedy herein provided, to:
- 1) Cause the building or structure ordered to be repaired or to be vacated until such time as the necessary repairs have been made. No person shall there-after occupy or permit to be occupied any such building, until and unless the necessary repairs have been made and the building official has approved same and issued a permit to reoccupy such building or structure;
 - 2) Request the building or structure be demolished and the land restored to a reasonably clear and level condition, including the filling of any excavation to the finished grade of the surrounding area. The demolition of any building or structure, and the sale of the materials thereof, may be by contract awarded, following advertisement for bids, to the best bidder; or when time is of the essence, the demolition may be accomplished with force account labor or any other reasonable means at the discretion of the City Council. Any such building or structure, singly or otherwise, may be sold. Any proceeds from the sale of any building or structure, or group or buildings or structures, over and above the cost of demolition and of cleaning the site shall be retained to be distributed to the parties or persons lawfully entitled thereto.

B) REPORT OF DEMOLITION. Upon completion of the demolition of any building or structure or any portion thereof under this section, the director of the demolition shall cause to be prepared and filed with the City Council a report specifying:

- 1) The work done
 - 2) The cost of the work and incidental direct expenses
 - 3) A description of the real property upon which the building or structure was located
 - 4) The names and addresses of the persons entitled to notice pursuant to above
 - 5) Administrative cost in complying with and accomplishing the purposes and procedures of this ordinance
- And
- 6) The total assessment against the lot and legal owner(s) proposed to be levied to pay the cost thereof.

C) HEARING ON REPORT AND ASSESSMENT OF COSTS. Upon filing of the report of demolition as provided in B above, the City Council shall by resolution, fix the day, hour, and place when it will hear and pass upon the report, together with any objections or protests which may be raised by any other interested persons. At least ten (10) days before the date set for the hearing, the director of the demolition shall cause copies of the report and notice of the filing of the report and of the day, hour, and place when the City Council will hear and pass upon the report, and any objections or protests thereto, to be posted and served in the manner upon the persons specified above. A copy of the notice shall be published once, at least ten (10) days prior to the date set for the hearing, in the official newspaper of the city. The council may make such revisions, corrections; or modifications in the report as it may deem just, and the report, as submitted or as revised, corrected, and modified, together with the assessment, shall be confirmed by ordinance. The decision of the City Council on the report and the assessment and all protest or objections shall be final and conclusive.

D) CONTEST OF ASSESSMENT. The validity of any assessment levied under the provisions of this section shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is confirmed.

E) ASSISSMENT AS LIEN ON PROPERTY. The amount of the cost of abating such nuisance upon the various lots or parcels of land, including incidental expenses, as confirmed by the City Council, shall constitute special assessments against the respective lots or parcels of land, and as thus made and confirmed, shall constitute a lien on such property for the amount of such assessments, respectively, until paid. Such lien shall, for all purposes, take priority over all other liens. The city clerk shall cause a certified copy of such special assessment lien to be filed with the county clerk in the deed records of the county. Such special assessment liens shall bear interest at the prevailing judgment interest rate from the date of filing of the same with the county clerk, and such lien shall be collected in the same manner as other assessment liens are collected under the laws of the state.

REMOVAL OF ORDERS OR NOTICES POSTED UNDER ORDINANCE

It shall be unlawful for any person to remove any notice or order posted as required in this ordinance.

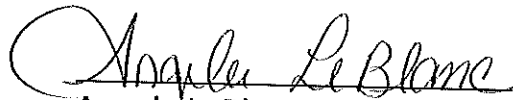
INTEREFERING WITH ENFORCEMENT OF ORDINANCE

It shall be unlawful for any person to obstruct, impede, or interfere with any officer, agent, or employee of the city or with any person who owns or holds any estate or interest in any building or structure or any portion thereof which has been ordered to be repaired, or demolished, or with any person to whom such building or structure has been lawfully sold pursuant to the provisions of this ordinance, whenever any such officer, agent, employee, purchaser or person having an interest or estate in such building or structure in engaged in repairing, vacating and repairing, or demolishing any such building or structure pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work, or authorized or directed pursuant thereto.

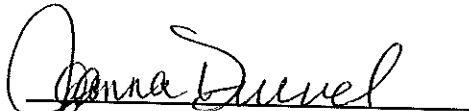
The provisions of this ordinance shall not be deemed to repeal by implication any provisions of the fire department code, the building code, or any other ordinance of the city, and the adoption hereof shall not be deemed to affect or diminish the

power or authority of any officer or employee of the city to condemn any building or structure erected or maintained in violation of any provision of the fire prevention ordinances, the building code or any other ordinance of the city.

APPROVED AND PASSED THIS THE ^{15TH} ~~TH~~ DAY OF April, 2014


Angela LeBlanc
Mayor

ATTEST:


Joanna Duevel
City Secretary