

**CITY OF GARIBALDI
ORDINANCE NO. 282**

**AN ORDINANCE PROVIDING FOR THE ABATEMENT OF DANGEROUS
STRUCTURES AND REPEALING ORDINANCE NO. 40.**

THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:

Section 1. REPEAL. Garibaldi Ordinance No. 40 (Prevention of Dangerous Buildings) and all other ordinances and orders or parts of ordinances or orders, in conflict herewith, are hereby repealed.

Section 2. TITLE. These regulations shall be known as the "City of Garibaldi Ordinance No. 282 for the Abatement of Dangerous Structures," may be cited as such, and will be referred to herein as "this Ordinance."

Section 3. PURPOSE, SCOPE AND RESPONSIBILITY

A. Purpose. 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 provided by the Oregon Structural Specialty Codes (OSSC) and the Oregon Residential Specialty Code (ORSC), Housing Code or otherwise available at 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 may be required to be repaired, vacated or demolished.

B. Scope. The provisions of this Ordinance shall apply to all dangerous structures, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

C. Responsibility. The City of Garibaldi contracts building inspection services with the Tillamook County Building Department. All references to "building official" are meant to direct action to the County's building official supplying said services to the City of Garibaldi. This Ordinance refers in its entirety to Tillamook County Ordinance No. 15.

Section 4. ALTERATIONS, ADDITIONS AND REPAIRS. All buildings or structures which are required to be repaired under the provisions of this Ordinance shall be subject to the provisions of this Ordinance and be subject to the provisions of OSSC Section 105.2.1 and ORSC Section R102.7.

Section 5. AUTHORITY. This Ordinance is enacted under the authority of ORS 203.035, 203.045, and 455.148.

ENFORCEMENT

Section 6. GENERAL.

A. Administration. The building official is hereby authorized to enforce the provisions of this Ordinance.

B. Inspections. The building official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Ordinance.

C. Right of Entry.

i. Where it is necessary to make an inspection to enforce any of the provisions of this Ordinance, or where the building official or his or her authorized representative has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code, which makes such building or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official or his or her authorized representative shall have recourse to the remedies provided by law to secure entry.

ii. When the building official shall have first obtained a property 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 structure or premises shall fail or neglect, after proper inquiries are made as herein provided, to promptly permit entry therein by the building official or his or her authorized representative for the purpose of inspection and examination pursuant to this Ordinance.

iii. "Authorized representative" shall include the official named in Section 6(B) and his or her authorized inspection personnel.

Section 7. ABATEMENT OF DANGEROUS BUILDINGS. All buildings or portions thereof which are determined after inspection by the building official to be public nuisances shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Sections 13 and 14 of this Ordinance.

Section 8. VIOLATIONS. It shall be unlawful for any owner or authorized agent to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, a building or structure or cause or permit the same to be done in violation of this Ordinance.

Section 9. INSPECTION OF WORK. All buildings or structures within the scope of this Ordinance and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this Ordinance and Sections 305 and 306 of the Tillamook County Building Code.

Section 10. BOARD OF APPEALS. In order to provide for final interpretation of this provision of this Ordinance and to hear appeals provided for hereunder, there is hereby established a Board of Appeals consisting of five members who are not employees of the City or County. The building official shall be an ex officio member of and shall act as secretary to said board. The board shall be appointed by the Tillamook County Board of Commissioners and shall hold office at its pleasure. The board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant, with a copy to the building official and City. Appeals to the board shall be processed in accordance with the provisions contained in Sections 21 through 25 of this Ordinance. Copies of all rules or regulations adopted by the board shall be delivered to the City and building official, who shall make them freely accessible to the public.

DEFINITIONS

Section 11. GENERAL. For the purpose of this Ordinance, 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 Housing Code. Where the terms are not defined, they shall have their ordinary accepted meanings with the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, 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.

A. BUILDING CODE is the International Building Code, Latest Edition adopted by the State of Oregon and promulgated by the International Code Council.

B. DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 12 of this Ordinance.

C. HOUSING CODE is the Uniform Housing Code promulgated by the International Conference of Building Officials.

Section 12. DANGEROUS BUILDING. For the purpose of this Ordinance, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

A. 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.

B. 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.

C. 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 Building Code for new buildings of similar structure, purpose or location.

D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

E. 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.

F. 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 so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

G. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that wall or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

H. Whenever the building or structure, or any portion thereof, is likely to partially or completely collapse because of:

- i. dilapidation, deterioration or decay;
- ii. faulty construction;
- ~~iii.~~ the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
- ~~iv.~~ the deterioration, decay or inadequacy of its foundation; or
- ~~v.~~ any other cause.

I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

J. 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 one-third of the base.

K. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

L. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to:

- i. become an attractive nuisance to children;
- ii. become a harbor for vagrants or criminals; or
- ~~ii.~~iii. enable persons to resort thereto for the purpose of committing illegal acts.

M. 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 City and County, as specified in the Building Code, or of any law or ordinance of this State, County or City relating to the condition, location or structure of buildings.

N. 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 50 percent, or in any supporting part, member or portion less than 66 percent of:

- i. strength;
- ~~i.~~ii. fire-resisting qualities or characteristics; or
- ~~ii.~~iii. weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

O. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, inadequate light, air or sanitation facilities, or otherwise, is determined by the County health office to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

P. 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 fire marshal to be a fire hazard.

Q. 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.

R. 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 portion thereof an attractive nuisance or hazard to the public.

NOTICE AND ORDERS OF BUILDING OFFICIAL

Section 13. COMMENCEMENT OF PROCEEDINGS. Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he or she shall commence proceedings to cause the repair, vacation or demolition of the building.

Section 14. NOTICE AND ORDER. The building official shall issue a notice and order directed to the record owner of the building and a copy to the City. The notice and order shall contain:

A. The street address and a legal description sufficient for identification of the premises upon which the building is located.

B. 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 12 of this Ordinance.

C. A statement of the required action to be taken as determined by the building official.

i. 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 time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

ii. If the building official has determined that the building or structure must be vacated, the order shall require that the building be vacated within such time as the building official shall determine is reasonable.

i.iii. 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 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order, and that the demolition be completed within such time as the building official shall determine is reasonable.

D. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced 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

i.ii. may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

E. Statements advising that:

i. 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 Ordinance and filed with the building official within 30 days from the date of service of such notice and order; and

i.ii. failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Section 15. SERVICE OF NOTICE AND ORDER. The notice and order, and any amended or supplemental notice and order, shall be served upon the recorded owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: The holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building 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 on him by the provision of this section.

Section 16. METHOD OF SERVICE. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at this address as it appears on the most recent assessment roll of the County or as known to the building official. If no address of any such person so appears or is known to the building official then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

Section 17. PROOF OF SERVICE. Proof of service of the notice and order shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

Section 18. RECORDATION OF NOTICE AND ORDER. If compliance is not had within the time specified, and no appeal has been properly and timely filed, the building official shall file in the office of the County Clerk a certificate describing the property and certifying (i) that the building is dangerous; and (ii) that the owner has been so notified. A copy shall be sent to the City for inclusion in the property file. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the County Clerk, certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

Section 19. REPAIR, VACATION AND DEMOLITION. 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.

A. Any building declared a dangerous building under this Ordinance shall either be repaired in accordance with the current Building Code or shall be demolished at the option of the building owner.

B. 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.

Section 20. NOTICE TO VACATE.

A. Posting. Every notice to vacate shall, in addition to being served as provided in Section 15, be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building,
or to remove or deface this notice.
Building Official
Tillamook County**

B. Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued by him or her under Section 14, reciting the emergency and specifying the conditions that necessitate the posting. No person shall remain in or enter any building that has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code. Any person violating this subsection shall be guilty of a misdemeanor.

APPEAL PROCESS

Section 21. FORM OF APPEAL. Any person entitled to service under Section 15 may appeal any notice, order or any action of the building official under this Ordinance by filing at the office of the building official a written appeal containing:

A. Heading in words: "Before the Board of Appeals of Tillamook County".

B. A caption reading: "Appeal of _____", giving the names of all appellants participating in the appeal.

C. 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.

D. 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.

E. 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.

F. The signatures of all parties named as appellants and their official mailing addresses.

G. 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 appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that 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 adjacent property and is ordered vacated and is posted in accordance with Section 20, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official. A copy of the appeal shall be filed with the City.

Section 22. PROCESSING OF APPEAL. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the Board of Appeals.

Section 23. CONTINUANCES. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such a hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

Section 24. OATHS - CERTIFICATION. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify official acts.

Section 25. REASONABLE DISPATCH. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

Section 26. FORM OF NOTICE OF HEARING. The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before the Board of Appeals or hearing examiner at _____ on the _____ day of _____, _____, at the hour _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with Board of Appeals or hearing examiner.”

Section 27. SUBPOENAS.

A. Filing and Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor 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.

B. Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

C. Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence in his or her possession or under his or her control as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

Section 28. CONDUCT OF HEARING.

A. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

B. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

C. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State.

D. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

E. Rights of Parties. Each party shall have these rights, among others:

- i. To call and examine witnesses on any matter relevant to the issue of the hearing;
- ii. To introduce documentary and physical evidence;
- iii. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- iv. To impeach any witness regardless of which party first called him or her to testify;
- v. To rebut the evidence against him or her;
- vi. To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.

F. Official Notice.

i. What May be Noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this State or of official records of the board or departments and ordinances of the City or County or rules and regulations of the board.

ii. Parties to be Notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

iii. Opportunity to Refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

- iv. Inspection of the Premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that:
 - a. notice of such inspection shall be given to the parties before the inspection is made;
 - b. the parties are given an opportunity to be present during the inspection; and
 - c. the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or the matters so stated by the board or hearing examiner.

Section 29. METHOD AND FORM OF DECISION

A. Hearing Before Board Itself. Where a contested case is heard before the board itself, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

B. Hearing Before Examiner. If a contested case is heard by a hearing examiner alone, he or she shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report shall also contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

C. Consideration of Report by Board - Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

D. Exceptions to Report. No later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

E. Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

F. Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Subsection (E), the board may decide the case upon the entire record before it, with or without taking additional evidence; or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, he or she shall prepare a report and proposed decision as provided in Subsection (B) hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

G. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested. A copy shall be filed with the City.

H. Effective Date of Decision. The effective date of the decision shall be as stated therein.

ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

Section 30. COMPLIANCE.

A. General. After any order of the building official or the Board of Appeals made pursuant to this Ordinance shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

B. Failure to Obey Order. If, after any order of the building official or Board of Appeals made pursuant to this Ordinance has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may:

- i. cause such person to be prosecuted under Subsection (A) of this section; or
- ii. institute any appropriate action to abate such building as a public nuisance.

C. Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this Ordinance becomes effective:

i. 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:

**DANGEROUS BUILDING
DO NOT OCCUPY
It is a misdemeanor to occupy this building
or to remove or deface this notice.
Building Official
Tillamook County**

ii. No person shall occupy any building that 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.

iii. 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. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this Ordinance. 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.

Section 31. EXTENSION OF TIME TO PERFORM WORK. Upon receipt of an application from the person required to conform to the order and agreement by such person that he or she will comply with the order if allowed additional time, the building official may, in his or her discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

Section 32. INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of Tillamook County, the City of Garibaldi or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this Ordinance; or with any person to whom such building has been lawfully sold pursuant to the provisions of this Ordinance, whenever such officer, employee, contractor or authorized representative of Tillamook County or the City of Garibaldi, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this Ordinance, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Ordinance.

PERFORMANCE OF WORK OR REPAIR OR DEMOLITION

Section 32. PROCEDURE. When any work or repair or demolition is to be done pursuant to Section 30(C)(iii) of this Ordinance, the building official shall issue his or her order therefore to the director of public works of Tillamook County and the City of Garibaldi and the work shall be accomplished by personnel of Tillamook County or by private contract under the direction of said director. Plans and specifications therefore may be prepared by said director, or he or she may employ such architectural and engineering assistance on a contract basis as he or she may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

Section 33. COSTS. The cost of such work shall be paid from the County's repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the Board of County Commissioners of Tillamook County shall determine is appropriate.

Section 34. REPAIR AND DEMOLITION FUND

A. General. The Board of County Commissioners of Tillamook County shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by Tillamook County in doing or causing to be done the necessary work or repair or demolition of dangerous buildings.

B. Maintenance of Fund. The Board of County Commissioners may at any time transfer to the repair and demolition fund, out of any money in the general fund of Tillamook County, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of Tillamook County who shall credit the same to the repair and demolition fund.

RECOVERY OF COST OF REPAIR OR DEMOLITION

Section 35. ACCOUNT OF EXPENSE, FILING OF REPORT: CONTENTS.

The Tillamook County Director of Public Works shall keep an itemized account of the expense incurred by Tillamook County in the repair or demolition of any building done pursuant to the completion of the work of repair or demolition, said director shall prepare and file with the County Clerk of Tillamook County a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the name and addresses of the persons entitled to notice pursuant to Section 15.

Section 36. REPORT TRANSMITTED TO COUNCIL - SET FOR HEARING. Upon receipt of said report, the County Clerk of Tillamook County shall present it to the Board of County Commissioners of Tillamook County for consideration and a copy to the City. The Board of County Commissioners of Tillamook County shall fix a time, date and place for hearing said report and any protest or objections thereto. The County Clerk of Tillamook County shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in Tillamook County, mailed to the City of Garibaldi and served by certified mail, postage prepaid, addressed to the owner of the property as his or her name and address appearing on the last equalized assessment role of the County, if such so appear, or as known to the County Clerk. Such notice shall be given at least 10 days prior to the date set for hearing and shall specify the day, hour, and place when the Board of County Commissioners will hear and pass upon the director's report, together with any objections or protest which may be filed as hereinafter provided by any person interested in or affected by the proposed change.

Section 37. PROTESTS AND OBJECTIONS - HOW MADE. Any person interested in or affected by the proposed charge may file written protests or objections with the County Clerk of Tillamook County at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The county Clerk of Tillamook County shall endorse on every such protest or objection the date it was received by him or her. He or she shall present such protest or objections to the Board of County Commissioners of Tillamook County at the time set for the hearing, and no other protests or objections shall be considered.

Section 38. HEARING OF PROTESTS. Upon the day and hour fixed for the hearing the Board of County Commissioners of Tillamook County shall hear and pass upon the report of the director together with any such objections or protests. The board of County Commissioners may make such revision, correction or modification in the report or the charge as it may deem just; and when the Board of County Commissioners is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the Board of County Commissioners of Tillamook County on the report and the charge, and on all protest or objections, shall be final and conclusive.

Section 39. PERSONAL OBLIGATION OR SPECIAL ASSESSMENT.

A. General. The Board of County Commissioners of Tillamook County may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

B. Personal Obligation. If the Board of County Commissioners of Tillamook County orders that the charge shall be a personal obligation of the property owner, it shall direct the County Counsel to collect the same on behalf of Tillamook county by use of all appropriate legal remedies.

C. Special Assessment. If the Board of County Commissioners of Tillamook County orders that the charge shall be assessed against the property it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

Section 40. CONTEST. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

Section 41. AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST. The board of County Commissioners of Tillamook County, in its discretion, may determine that assessments in amount of \$500 or more shall be payable in not to exceed five equal annual installments. The Board of County Commissioners' determination to allow payment of such assessments in installments, the number of installments, whether they shall earn interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

Section 42. LIEN OF ASSESSMENT.

A. 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 assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

B. Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 9 percent per annum from and after said date.

Section 43. REPORT TO ASSESSOR AND TAX COLLECTOR:

ADDITION OF ASSESSMENT TO TAX BILL. After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for Tillamook County, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

Section 44. FILING COPY OF REPORT WITH COUNTY AUDITOR.

If the County Assessor and the County Tax Collector assess property and collect taxes for Tillamook County, a certified copy of the assessment shall be filed with the County auditor on or before August 10. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year.

Section 45. COLLECTION OF ASSESSMENT: PENALTIES FOR

FORCLOSURE. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the Board of County Commissioners has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

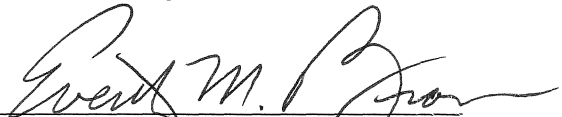
Section 46. REPAYMENT OF REPAIR AND DEMOLITION FUND. All money recovered by payment of the charge or assessment from the sale of the property at foreclosure sale shall be paid to the treasurer of Tillamook County who shall credit the same to the repair and demolition fund.

Section 47. EFFECTIVE DATE; DECLARATION OF EMERGENCY. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare of the residents of the City of Garibaldi, an emergency is declared to exist, and this Ordinance shall take effect immediately upon its adoption.

Section 48. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or unlawful, such decision shall not affect the remaining portions of this Ordinance. The Council hereby declares that it would have passed each phrase thereof, irrespective of the fact that any one or more of such provisions be declared unconstitutional or unlawful.

PASSED BY A READING OF TITLE ONLY by the Council this 15th day of August, 2005.

APPROVED by the Mayor this 15th day of August, 2005.



Hon. Everett M. Brown, Mayor

ATTEST:



John O'Leary, Recorder