

**ORDINANCE NO. 5845**

**AN ORDINANCE ADOPTING THE 2011 CITY OF FAIRBANKS CODE  
FOR ABATEMENT OF DANGEROUS BUILDINGS**

**WHEREAS**, in 2002 the City Council adopted the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings; and

**WHEREAS**, the 1997 Uniform Code for the Abatement of Dangerous Buildings is now out of print, and there is a need to adopt a code that serves the community; and

**WHEREAS**, after extensive review and study, the Building Official and the Building Code Review and Appeals Commission recommend a new abatement code that best reflects local conditions; and

**WHEREAS**, the City Council desires to accept the recommendations of the Building Official and the Building Code Review and Appeals Commission.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:**

**Section 1.** The attached 2011 City of Fairbanks Code for the Abatement of Dangerous Buildings is hereby adopted. Copies of this Abatement Code shall be made available at the Building Department and published online at the City of Fairbanks website.

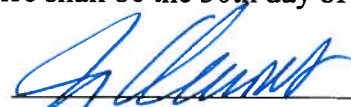
**Section 2.** Section 10-206 of the Fairbanks Code of Ordinances, is hereby repealed and replaced as follows:

**Sec. 10-206. Adoption.**

The 2011 City of Fairbanks Code for the Abatement of Dangerous Buildings is hereby adopted by the City of Fairbanks.

**Section 3.** Section 10-207 of the Fairbanks Code of Ordinances is hereby repealed.

**Section 4.** The effective date of this ordinance shall be the 30th day of April 2011.

  
\_\_\_\_\_  
**Jerry Cleworth, Mayor**

AYES: Gatewood, Stiver, Bratcher, Matherly, Roberts  
NAYS: None  
ABSENT: Eberhart  
ADOPTED: April 25, 2011

ATTEST:

  
\_\_\_\_\_  
JANEY HOVENDEN, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
PAUL EWERS, City Attorney

**2011 CITY OF FAIRBANKS  
CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS**

**CHAPTER 1  
TITLE AND SCOPE**

**SECTION 101 – TITLE**

These regulations shall be known as the Abatement of Dangerous Buildings Code, may be cited as such, and will be referred to herein as “this code” or the “Abatement Code.”

**SECTION 102 – PURPOSE AND SCOPE**

**102.1 Purpose.** 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 construction codes as adopted by the City of Fairbanks, 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, will be repaired, vacated, demolished or removed.

The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

**Section 102.2 Scope.** The provisions of this chapter apply to all dangerous buildings or structures, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

**SECTION 103 – ALTERATIONS AND REPAIRS**

All buildings or structures required to be repaired under the provisions of this chapter are subject to the provisions of the International Building Code, as adopted by the City of Fairbanks.

**CHAPTER 2  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 201 - GENERAL**

**201.1 Administration.** The building official and fire chief are hereby authorized to enforce the provisions of this code.

The code official shall have the authority and duty to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations will be in conformity with the intent and purpose of this code.

**201.2 Inspections.** The building official and fire marshal are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

**201.3 Right of entry.** When it is necessary to make an inspection to enforce the provisions of this code 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 code 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 code, 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.

## **SECTION 202 – ABATEMENT OF DANGEROUS BUILDINGS**

All buildings or structures or portions thereof which are determined after inspection by the building official to be dangerous, as defined in this code, are hereby declared to be public nuisances and will be abated by repair, demolition, or removal in accordance with the procedure as specified in Section 401 of this code.

## **SECTION 203 – VIOLATIONS**

It is 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 code.

## **SECTION 204 – INSPECTION OF WORK**

All buildings or structures within the scope of this code and all construction or work for which a permit is required are subject to inspection by the building department in accordance with inspection requirements as set forth by the Administrative Code as adopted and amended by the City of Fairbanks. All work will be inspected and approved by the code official before it is covered.

## **SECTION 205 – APPEALS BOARD**

**205.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, an appeals board is hereby created. The composition of the appeals board and its general rules of procedure, duties and powers are set forth in the Fairbanks General Code of Ordinances, Sections 2-481 through 2-484.

**205.2 Limitations of Authority.** The appeals board shall have no authority relative to interpretations of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

## **CHAPTER 3 DEFINITIONS**

### **SECTION 301 – GENERAL**

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

**Abandoned Structure** is a structure that has been vacant for a period in excess of 12 months or any period less than 12 months when a vacant structure or portion thereof constitutes an attractive nuisance or hazard to the public as determined by the Building Official. A structure will not be considered abandoned if it is available for lease and ready for occupancy in compliance with the applicable provisions of chapter 10 of the Fairbanks General Code.

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

**Building Code** is the most current edition of the International Building Code as adopted by the City of Fairbanks.

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

**Code Official** is the building official, fire official or their designee.

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

**Derelict Building** is any building, structure or portion thereof which is unoccupied and meets any of the following criteria:

1. Has been ordered vacated by the Building Official pursuant to the provisions of this code.
2. Has been issued a correction notice by the Building Official pursuant to the provisions of this code.
3. Has been posted for violation of this code more than once in any two year period.
4. Is unsecured.

**Habitual** means customarily or by frequent practice or use. It does not mean entirely or exclusive.

**Imminent or immediate** means near or at hand, or left unattended to, on the point of happening. An observable structural, electrical, mechanical or plumbing failure to the extent that a reasonable person may believe that possesses 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. A building which is unfit for human occupancy is classified as a dangerous building and shall be abated as determined by the building official in accordance with this code.

**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. An unsafe building shall be abated as determined by the building official in accordance with this code. Abatement may consist of correction and repair in accordance with an approved work agreement or demolition.

**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.

**Unoccupied** means not being used for lawful occupancy.

**Unsecured** means the lack of a secure means of ingress and egress thus allowing for occupancy or use of a building or structure by unauthorized persons.

**Work Agreement Contract to Repair** is a written agreement between the owner of a building and the City of Fairbanks wherein the owner agrees to carry out required repair/work on any abandoned, unsafe, dangerous structure or structures between a specified commencement and completion date.

## **SECTION 302- DANGEROUS BUILDING**

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described is 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.

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 nonsupporting 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, structure or grounds are 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.

## **CHAPTER 4 NOTICE AND ORDER OF BUILDING OFFICIAL**

### **SECTION 401 - GENERAL**

**401.1 Commencement of Proceedings.** When the building official has inspected or caused to be inspected any building or structure and has determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, demolition, or removal of the building or structure.

**401.2 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 will 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 that 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 302.
3. A statement of the action required to be taken as determined by the building official:
  - 3.1 If the building official has determined that 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 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 the circumstances.
  - 3.2 If the building official has determined that 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.
  - 3.3 If the building official has determined the building or structure must be demolished, the demolition will be completed within such time as the building official determines is reasonable and will be specified on the Notice and Order. A minimum notification of 60 days is required for all



building demolitions unless the building or structure represents an immediate danger to the public health, safety and welfare.

4. 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 (ii) may proceed to cause the work to be done and charge the costs thereof against the property and/or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the appeals board provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

**401.3 Service of Notice and Order.** The notice and order, and any amended or supplemental notice and order, must be served upon the record owner and posted on the property; and one copy thereof must 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 code official to serve any person required herein to be served will 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.

**401.4 Method of Service.** Service of the notice and order will 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 their address as it appears on the property tax records of the Fairbanks North Star Borough or as known to the code official. If no address of any such person so appears or is known to the code official, then a copy of the notice and order will be 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 will not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided will be effective on the date of mailing.

**401.5 Proof of Service.** Proof of service of the notice and order will be certified to 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 acknowledgement of receipt by certified mail, will be affixed to the copy of the notice and order retained by the building official.

## **SECTION 402 – RECORDATION OF NOTICE AND ORDER**

If the notice and 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 Fairbanks District Recorder's Office a certificate describing the property and certifying:

1. The building or structure is a dangerous building; and
2. The owner has been so notified.

When the corrections ordered have been completed or the building or structure demolished so it no longer exists as a dangerous building or structure on the property described in the certificate, the code official shall file a new certificate with the Fairbanks District Recorder certifying the building or structure has been removed, demolished or all required corrections have been made so that the building or structure is no longer dangerous, whichever is appropriate.

**402.1 Transfer of ownership.** It is unlawful for the owner of any building or structure who has received a notice and order under this Abatement Code to sell, transfer, mortgage, lease or otherwise dispose of such building or structure to another until the provisions of the notice and order have been complied with, or until such owner has furnished the grantee, transferee, mortgagee or lessee a true copy of any notice and order issued by the code official and furnished 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 403 – REPAIR VACATION AND DEMOLITION**

The following standards will be followed by the Building Official (and the Appeals Board if an appeal is taken) in ordering the repair vacation or demolition of any dangerous, abandoned or derelict building or structure or public nuisance defined herein.

1. Any building declared a dangerous, abandoned or derelict building as classified by this code will be made to comply by the owner with one of the following options:
  - 1.1 The building will be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair. All work will be permitted and inspected as required by the applicable building code as adopted by the City of Fairbanks.
  - 1.2 The building or structure may be demolished at the option of the owner.
2. If the building or structure is in such condition as to make it immediately dangerous to life, limb, property or safety of the public or its occupants, it will be ordered to be vacated and, if repairs are not begun within 60 days as stipulated by the notice and order, demolished.

3. If one or more of the following conditions exists, the building or structure may be ordered to be demolished:
  - a. The building is in imminent danger of collapse due to structural failure.
  - b. The building has not been properly secured or maintained so that it is habitually used as a harbor for vagrants or is an attractive nuisance to children.
  - c. The building is beyond economic feasibility to repair.
  - d. The building remains abandoned or derelict 180 days after notice pursuant to the provisions of this code.

## **SECTION 404 – NOTICE TO VACATE**

**404.1 Posting.** Every notice to vacate, in addition to being served as provided in Section 401.3, will be posted at or upon each exit of the building and will 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  
City of Fairbanks**

**404.2 Compliance.** Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under section 401.2 identifying the emergency or circumstances and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which 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.

**404.3 Summary Abatement.** The building official may abate any public nuisance without notice in an emergency where the 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, will apply to the nuisance summarily abated, including the recovery of the costs of the summary abatement.

## **CHAPTER 5 APPEAL**

### **SECTION 501 – GENERAL**

**501.1 Form of Appeal.** Any person entitled to service under sections 401.3 may appeal any notice and order or any action of the code official under this code by filing at the office of the building official a written appeal within (30) days from the date of service of such notice and order of the building 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 404, such appeal must be filed within ten (10) days from the date of the service of the notice and order of the code official. The written appeal must contain:

- a) 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.
- b) 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.
- c) 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.
- d) The signatures of all parties named as appellants and their official mailing addresses.

**501.2 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 appeals board.

**501.3 Scheduling and noticing appeal for hearings.** As soon as practicable after receiving the written appeal, the appeals board shall fix a date, time and place for the hearing of the appeal by the board. Such date will 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 will 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.

#### **SECTION 502 – EFFECT OF FAILURE TO APPEAL**

Failure of any person to file an appeal in accordance with the provisions of section 501 will constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

#### **SECTION 503 – SCOPE OF HEARING ON APPEAL**

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

#### **SECTION 504 – STAYING OF ORDER UNDER APPEAL**

Except for vacation orders made pursuant to section 404, enforcement of any notice and order of the code official issued under this chapter will be stayed during the appeal there from which is properly and timely filed.

**CHAPTER 6  
PROCEDURES FOR CONDUCT OF HEARING APPEALS**

**SECTION 601 - GENERAL**

**601.1 Hearing Examiners.** The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

**601.2 Record.** A record of the entire proceedings will be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

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

**601.4 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 to official acts.

**601.5 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 602 - FORM OF NOTICE OF HEARING**

The notice to appellant will be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before (the appeals board or name of hearing examiner) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_:\_\_ a.m./p.m., at \_\_\_\_\_, 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 therefore with (appeals board or name of hearing examiner)."

**SECTION 603 – SUBPOENAS**

**603.1 Filing of 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 will be obtained upon the filing of an affidavit therefore 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 possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

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

**603.3 Penalties.** Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls, as required by any subpoena served upon such person as provided for herein is guilty of a misdemeanor.

## **SECTION 604 - CONDUCT OF HEARING**

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

**604.2 Oral Evidence.** Oral evidence will be taken only on oath or affirmation.

**604.3 Hearsay Evidence.** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but is not 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.

**604.4 Admissibility of Evidence.** Any relevant evidence will be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

**604.5 Exclusion of Evidence.** Irrelevant and unduly repetitious evidence will be excluded.

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

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.

## **604.7 Official Notice.**

**604.7.1 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 which 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 rules and regulations of the board.

**604.7.2 Parties to be notified.** Parties present at the hearing will be informed of the matters to be noticed, and these matters will be noted in the record, referred to therein, or appended thereto.

**604.7.3 Opportunity to refute.** Parties present at the hearing will 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.

**604.7.4 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 (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn there from. Each party then will have a right to rebut or explain the matters so stated by the board or hearing examiner.

## **SECTION 605 - METHOD AND FORM OF DECISION**

**605.1 Hearing before Board Itself.** When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

**605.2 Hearing before Examiner.** If a contested case is heard by a hearing examiner alone, the examiner 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 will contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also will contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiners' reports filed with the board will be matters of public record. A copy of each such report and proposed decision will be mailed to each party on the date they are filed with the board.

**605.3 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.

**605.4 Exceptions to Report.** Not 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.

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

**605.6 Proposed Decision Not Adopted.** If the proposed decision is not adopted as provided in Section 605.5, 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, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board will comply with the provisions of this section.

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

**605.8 Effective Date of Decision.** The effective date of the decision will be as stated therein.

## **CHAPTER 7 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE APPEALS BOARD**

### **SECTION 701 – COMPLIANCE**

**701.1 General.** After any order of the building official or the appeals board made pursuant to this code becomes 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.

**701.2 Failure to Obey Order.** If, after any order of the building official or the appeals board, made pursuant to this code, becomes final, the person to whom such order is directed fails, neglects or refuses to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

**701.3 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 code becomes effective:

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



**DANGEROUS BUILDING  
DO NOT OCCUPY**

**It is a misdemeanor to occupy this building or to remove or deface this notice.**

**Building Official  
City of Fairbanks**

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.
  
3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris there from removed and the lot cleaned. Any such repair or demolition work will be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, will be paid to the person or persons lawfully entitled thereto.

**SECTION 702 - EXTENSION OF TIME TO PERFORM WORK**

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 180 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 703 - INTERFERENCE WITH REPAIR OR DEMOLITION WORK  
PROHIBITED**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction 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 code or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, 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 code, or in performing any

necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

## **CHAPTER 8 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION**

### **SECTION 801 – GENERAL**

**801.1 Procedure.** When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order to the director of public works, and the work will be accomplished by city personnel or by private contract under the direction of the director. Plans and specifications may be prepared by the director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures will be followed.

**801.2 Costs.** The cost of such work will be paid from the general fund and may be made from a special assessment against the property involved and/or a personal obligation of the property owner, as the city council shall determine appropriate.

## **CHAPTER 9 RECOVERY OF COST OF REPAIR OR DEMOLITION**

### **SECTION 901 - ACCOUNT OF EXPENSE, FILING OF REPORT**

The director of public works shall keep an itemized account of the expense incurred in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, the director shall prepare and file with the city clerk 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 names and addresses of the persons entitled to notice pursuant to Section 401.3.

### **SECTION 902 - NOTICE OF HEARING**

Upon receipt of the report, the city clerk shall present it to the city council for consideration. The council shall fix a time, date and place for hearing the report and any protests or objections thereto. The clerk shall publish notice of the hearing once in a newspaper of general circulation in this jurisdiction and shall mail a copy of the notice by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the borough's property tax records, if it appears, or as known to the clerk. In addition, the building official shall cause notice of the hearing to be posted upon the property involved. Such notice will be given at least 10 days prior to the date set for the hearing and will specify the day, hour and place when the council will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

## **SECTION 903 - PROTESTS AND OBJECTIONS**

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk 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 the protest or objection. The clerk shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the council at the time set for the hearing, and no other protests or objections will be considered.

## **SECTION 904 - HEARING OF PROTESTS**

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

## **SECTION 905 - PERSONAL OBLIGATION AND PROPERTY LIEN**

**905.1 General.** The council may order that the charge be made a personal obligation of the property owner and/or a lien against the property.

**905.2 Personal Obligation.** If the council orders that the charge be a personal obligation of the property owner, it shall direct the city attorney to collect the charge on behalf of the city by use of all appropriate legal remedies.

**905.3 Property Lien.** If the council orders that the charge be made a lien against the property, it shall direct that the lien be recorded. The lien will be paramount to all other liens except for state and borough property taxes with which it will be upon a parity. The lien will continue until paid in full.

**905.4 Interest.** All charges imposed by the council remaining unpaid after 30 days from the date of recording will become delinquent and will bear interest at the legal rate from and after that date.

## **SECTION 906 – CONTEST**

Any action to contest the council's action under Sections 904 or 905 must be commenced within 30 days.