

ORDINANCE NO. 291

AN ORDINANCE AMENDING ORDINANCE NO. 239, AS AMENDED, BY MODIFYING PROCEDURES

The City of Coos Bay ordains as follows:

Section 1: Violations. Section 11, Penalties, is amended to read as follows:

Section 11. Penalties. Failure to comply with any provision of this Code is a violation, and shall be subject to a penalty not to exceed \$750.00 per violation. Each day that a violation persists after notice of the violation is provided to the owner shall constitute a separate and distinct violation

Section 2: Appeals. Section 22, Appeals, is amended to read as follows:

Section 22. Appeals.

- (1) Any person aggrieved by an order, decision, or determination of the Building Official under Sections 30 - 79 of this Code may appeal by filing a written Notice of Appeal at the office of the Building Official.
- (2) The Notice of Appeal shall be filed within 30 days from the date of the decision, determination or service of the order by the Building Official.
- (3) The Notice of Appeal shall contain the following:
 - (a) A brief statement setting forth the legal interest of each of the appellant in the building or the land subject to the order, decision or determination.
 - (b) A brief statement in simple and concise language of the specific decision, determination or order being appealed, together with material facts claimed to support the contentions of the appellant.
 - (c) A brief statement in simple and concise language of the relief sought and the reasons why it is claimed the order, decision or determination of the Building Official should be reversed, modified or otherwise set aside.
 - (d) The names of all parties designated as appellants and their official mailing addresses.
 - (e) Verification by the appellant or appellants by declaration under penalty of perjury of the truth of the matters stated in the Notice of Appeal.
- (4) Failure of any person to file a Notice of Appeal in accordance with the

provisions of this Code shall constitute a waiver of the right to administrative hearing and adjudication of any notice, order, decision or determination of the Building Official, or any portion thereof.

Section 3: Further Appeals. Section 25 is amended to read as follows:

Section 25. Further Appeals. An appeal from a decision of the Board of Appeals shall be made pursuant to ORS 455.690 to the appropriate advisory board within the Oregon Department of Consumer and Business Services.

Section 4: Substandard Buildings. Section 80 is hereby amended to read:

Section 80. Substandard Buildings; Nuisances.

(1) Sections 80-89 shall be known as the "Substandard Building Provisions" of the Uniform and Specialty Code of the City of Coos Bay.

(2) Buildings or portions thereof which are determined to be substandard as defined by this Code are hereby declared to be public nuisances, and shall be abated by repair, rehabilitation, demolition or removal.

Section 5: Substandard Conditions. The heading for Section 81 is hereby amended to read "Substandard Conditions or Defects."

Section 6: Initiation of Enforcement Proceedings. Section 82, Subsection 3 and Subsection 5 are hereby amended to read as follows:

(3) The Notice and Order shall also contain a statement advising that any person holding record title or having legal interest in the building may appeal the action of the Building Official to the City Council , by filing an appeal with the Building Official, in writing, within 30 days from the date of service of the Notice and Order; and that failure to appeal will constitute a waiver of all right to hearing and determination of the matter. If the Notice and Order are appealed, the City Council may, after hearing upon the appeal, declare the building to be a nuisance, and issue an order of abatement.

(5) Any Notice and Order issued pursuant to this section shall require one or more of the following:

(a) The building be repaired in accordance with current uniform and specialty code applicable to the substandard condition which is the subject of the Notice and Order; or

(b) The building be demolished at the option of the owner;

(c) If the building is in such a condition that it may become dangerous to life, limb, property or safety of the public in the immediate future, the building may be ordered vacated within a time certain not to exceed thirty days from the date of the issuance of the Notice and Order.

Section 7: Vacation Procedures. New Sections 83-86 are hereby added, to read as follows:

Section 83: Notice to Vacate.

(1) If the building is ordered vacated under Section 82(5)(c), the Building Official shall post a Notice to Vacate on the building in substantially the following form:

**DANGER
DO NOT ENTER
THIS BUILDING DEEMED UNSAFE
FOR HUMAN OCCUPANCY**
It is unlawful for any person to
occupy or reside in this building
or to remove or deface this notice

(2) Whenever Notice to Vacate is posted, the Building Official shall include notification of such posting in the Notice and Order issued under Section 82(2). No person shall enter or remain in any building which has been posted with a Notice to Vacate, except to repair, demolish or remove the 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, a final inspection performed, and the building approved for occupancy.

Section 84: Compliance. After any Notice and Order becomes final, the person to whom such order is directed shall not fail, neglect, or refuse to obey the order. If the person does so, the Building Official may issue a citation for violation of this Code and institute proceedings to abate the building as a nuisance.

Section 85: Failure to Commence Work. Whenever required repair or demolition is not commenced within sixty days after any Notice and Order of substandard building is issued, the Building Official may cause the building described in such Notice and Order to be vacated by posting at each entrance the notice set forth under Section 83(a) of this Code, and commence proceedings to declare the building a nuisance pursuant to Sections 96-100 of this Code.

Section 86: Extension of Time to Perform Work. At any time after the Notice and Order is issued and prior to the hearing upon abatement, upon receipt of an application by the owner of record of the building for an extension of time to comply with the Notice and

Order, the Building Official may grant an extension of time within which to complete the repair, rehabilitation or demolition of the building.

Section 8: Section 90 is hereby amended to read as follows:

Section 90. Dangerous Buildings.

(1) Sections 90-95 shall be known as the "Dangerous Building Provisions" of the Uniform and Specialty Code of the City of Coos Bay.

(2) Buildings or portions thereof which are determined to be dangerous as defined by this Code are hereby declared to be public nuisances, and shall be abated by repair, rehabilitation, demolition or removal.

Section 9: Dangerous Conditions. The heading for Section 91 is hereby amended to read "Dangerous Conditions or Defects."

Section 10: Notice to Vacate Dangerous Buildings. Section 93 is hereby amended to read as follows:

(1) If the Building Official determines a building or structure is in such condition as to make it dangerous to the life, limb, property or safety of its occupants or the public, the Building Official shall issue a Notice to Vacate, order the building or structure vacated and secured, and commence abatement proceedings under Section 94.

(2) The Building Official shall issue a Notice of Dangerous Building and Order directed to the owner of record of the building, stating action to be taken:

(a) If the Building Official has determined the building or structure must be repaired, the Order shall require that all required permits be obtained and the work commenced and completed within such time as the Building Official determines reasonable under all of the circumstances.

(b) If the Building Official has determined the building or structure must be vacated, the Order shall require such vacation within a time certain as determined by the Building Official to be reasonable.

(3) The Notice and Order shall also contain a statement advising that any person holding record title or having legal interest in the building shall comply with the Notice and Order, that proceedings have been commenced to abate the building as a public nuisance.

(4) The Notice and Order shall be posted on the property and served, by personal service or certified mail, on the owner of record and each of the following, if known:

the holder of a mortgage or deed of trust; the holder of a lien or other encumbrance of record; the holder of any lease of record; and the holder of any other estate or legal interest of record in the building or real property on which the building is located. The failure of the Building Officer to serve any person shall not invalidate any proceedings hereunder or relieve any such person from any duty or obligation imposed by the provisions of this section.

(5) Any Notice and Order issued pursuant to this section shall require the following:

(a) The building be repaired in accordance with current uniform and specialty code applicable to the substandard condition which is the subject of the Order; or

(b) The building be demolished at the option of the owner; and

(c) If the building is in such a condition that it is immediately dangerous to life, limb, property or safety of the public, the building shall be ordered vacated.

(6) Posting of Notice to Vacate.

(a) Every Notice to Vacate shall be posted at or upon each exit of the building and shall be in substantially the following form:

**DANGER
DO NOT ENTER
THIS BUILDING DEEMED UNSAFE
FOR HUMAN OCCUPANCY**

It is unlawful for any person to
occupy or reside in this building
or to remove or deface this notice

(b) Whenever such Notice is posted, the Building Official shall also provide written notice to the owner and occupant of the building or structure, reciting the emergency and specifying the conditions which necessitate the posting.

(c) 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.

(d) No person shall remove or deface any such Notice after it is posted until the required repairs, demolition, or removal have been completed, a final inspection performed, and the building approved for occupancy.

Section 11: New Sections. The following new Sections 94 and 95 are hereby added, to read as follows:

Section 94: Compliance. After any Notice to Vacate issued under Section 93 has been issued, any person to whom such order is directed shall not fail, neglect, or refuse to obey the order. If the person does so, the Building Official may issue a citation for violation of this Code.

Section 95: Extension of Time to Perform Work. At any time within fifteen days after the Notice and Order to Vacate is issued, and upon receipt of an application by the owner of record for an extension of time to comply with the Notice and Order, the Building Official may grant an extension of time within which to complete the repair, rehabilitation or demolition of the building.

Section 12: Initiation of Abatement Proceedings. Section 94 is hereby renumbered and amended to read as follows:

Section 96. Initiation of Abatement Proceedings. When the Building Official has issued a Notice and Order to Vacate under Section 83, 85 or 93 of this Code, and any extensions of time have lapsed, the Building Official shall provide a report to the City Council, which shall fix a time and place for a hearing to determine whether the building is a public nuisance and should be abated.

Section 13: Nuisance Determination. Section 96 is hereby renumbered and amended to read as follows:

Section 98. Nuisance Determination. After hearing, and upon evidence presented, any building or structure or portion thereof determined by the City Council to be a substandard or dangerous building shall be declared public nuisance which shall be abated.

Section 14: Renumbering. Sections 95, 97, 98, 99 are hereby renumbered as 97, 99, 100 and 101 respectively.

Section 15: Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 16: Existing Enforcement Actions. Nothing in this ordinance shall be construed to affect any enforcement action pending at the time this ordinance becomes effective.

Section 17: Emergency. The City Council of the City of Coos Bay finds that the health, safety and welfare of the City of Coos Bay requires this Ordinance to have immediate effect. Therefore, the City Council hereby declares the existence of an emergency and this Ordinance shall be in full force and effect from the time of its passage and approval.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this 4th day of April, 2000.

Yes: Mayor Verger and Councilors Joe Benetti, Jeff McKeown, Cindi Miller,
Don Spangler, Kevin Stufflebean, and Judy Weeks

No: None

Absent: None

Joanne Verger
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Joyce Jansen
Deputy Recorder of the City of Coos Bay
Coos County, Oregon