

AN ORDINANCE REPEALING CHAPTER 46, ENVIRONMENT. OF THE CODE OF THE CITY OF FULTON, ENACTING A NEW CHAPTER IN LIEU THEREOF, AND ESTABLISHING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULTON, MISSOURI, AS FOLLOWS:

SECTION ONE: That Chapter 46, Environment of the Code of the City of Fulton, Missouri is hereby repealed, and a new Chapter 46, Environment is hereby enacted in lieu thereof, reading as follows:

ARTICLE I: UNSAFE BUILDINGS

Section 1. Purpose and scope.

It is the purpose of this ordinance to implement the provisions of Section 67.400, RSMo., et seq. and to provide a just, equitable, and practicable method for the repairing, vacation, or demolition of buildings or structures that may endanger the life, limb, health, property, safety, or welfare of the occupants of such buildings or general public, and this ordinance shall apply to all Dangerous Buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Fulton, Missouri (the "City"). All Dangerous Buildings, as defined by Section 2, are hereby declared to be public nuisances, and shall be vacated, repaired, or demolished as provided herein.

Section 2. Definitions.

- (a) "*Dangerous Buildings*". The following conditions in structures or buildings within the City are determined to be detrimental to the health, safety, or welfare of the residents of the City and structures or buildings containing such defects shall be deemed "Dangerous Buildings":
- i. Those with interior walls, exterior walls, or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
 - ii. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
 - iii. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
 - iv. Those that have been damaged by fire, wind, or other causes so as to become dangerous to life, safety, or the general health and welfare of the occupants or the people of the City.
 - v. Those that are so dilapidated, decayed, unsafe, unsanitary, or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause injury to the health, safety, or welfare of those occupying such building.
 - vi. Those that, because of missing, inadequate, or ineffective light, air ventilation, or sanitation facilities, including, but not limited to, no running water, no heated water, no electricity, no heat

source, or no working sanitation facilities, are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.

- vii. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other adequate means of evacuation.
 - viii. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
 - ix. Those that, because of obsolescence, dilapidated condition, deterioration or damage, are detrimental to the sale, loan, or taxable values of surrounding properties or which render such surrounding properties uninsurable or which constitute a blighting influence upon the neighborhood or which constitute an eyesore so as to deprive owners or occupants of neighboring property of the beneficial use and enjoyment of their premises.
 - x. Those that because of their condition are otherwise unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this City.
- (b) "*Interested Parties*". The owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in any building or structure affected by this ordinance, as shown by the land records of the Recorder of Deeds of Callaway County.

Section 3. Standards for repair, vacation, or demolition.

The following standards shall be followed in substance by the Building Inspector and the Building Commissioner in ordering repair, vacation, or demolition of any Dangerous Building.

- (a) If the Dangerous Building is occupied and in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated and then repaired or demolished.
- (b) If the Dangerous Building reasonably can be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be ordered repaired prior to ordering any demolition.
- (c) If the Dangerous Building cannot be reasonably repaired so that it no longer will exist in violation of the terms of this ordinance or if it is not repaired as ordered pursuant to this ordinance, then it shall be ordered demolished.
- (d) Whether a Dangerous Building can reasonably be repaired shall be determined in the discretion of the City Building Inspector or Building Commissioner, as the case may be, considering the time and expense of any repairs, the costs of demolition and removal, and the value of the Dangerous Building and the property.
- (e) Any Dangerous Building that is not repaired pursuant to the orders issued under this ordinance shall be presumed to be unable to be reasonably repaired.

Section 4. Building Inspector.

- (a) *Building Inspector*. Any City employee so designated by the Mayor or City Administrator shall be Building Inspectors within the meaning of this ordinance.

(b) *Duties of the Building Inspector.* The Building Inspector shall have the power and duty under this ordinance to:

- i. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special, or miscellaneous occupancy buildings to determine whether any conditions exist that render such places a Dangerous Building when the Inspector has reasonable grounds to believe that any such building is a Dangerous Building, including entering any building with the approval of the occupant or owner or with a warrant.
- ii. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this ordinance, and the Building Inspector determines that there are reasonable grounds to believe that such building is a Dangerous Building, including entering any building with the approval of the occupant or owner or with a warrant.
- iii. Inspect any building, wall, or structure reported by the fire or police departments of this City as potentially existing in violation of this ordinance.
- iv. In accordance with Section 6, notify, in writing, the Interested Parties of any building found to be a Dangerous Building.
- v. Report in writing to the City Building Commissioner the noncompliance with any notice to vacate, repair, or demolish or upon the failure to proceed continuously with the work without unreasonable delay;
- vi. Appear at all hearings conducted by the Building Commissioner and testify as to the condition of Dangerous Buildings.
- vii. Post notices to interested persons on a Dangerous Building as provided in this ordinance and as directed by the Building Commissioner, and post notice of any order issued by the Building Commissioner.
- viii. Take any other action as directed by the Mayor, City Administrator, or Building Commissioner or as necessary for compliance with this ordinance, state, or federal law.

Section 5. Building Commissioner.

(a) *Building Commissioner.* The Planning and Protective Services Director shall act as Building Commissioner under this ordinance.

(b) *Duties of the Building Commissioner.* The Building Commissioner shall have the power and duty pursuant to this ordinance to:

- i. Supervise all inspections required by this ordinance and cause the Building Inspector to make inspections and perform all the duties required of the Building Inspector by this ordinance. Upon receiving a complaint or report from any source that a Dangerous Building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of the Commissioner's duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report

be made by any other City department or retain services of an expert whenever the Building Commissioner deems such service necessary.

- ii. Upon receipt of a report from the Building Inspector indicating a failure by any Interested Party to commence work of reconditioning or demolition with the time specified by the notice given them or this ordinance or to proceed continuously with work without unreasonable delay, the Building Commissioner shall call and hold a full and adequate hearing giving all Interested Parties notice on the matter in accordance with Section 6.
- iii. Take any other action, directly or through the Building Inspector, as directed by the Mayor or City Administrator, or as necessary for compliance with this ordinance, state, or federal law.

Section 6. Declaration of nuisance; procedure.

(a) *Issuance of Nuisance Notice.* After an inspection performed by a Building Inspector in accordance with this ordinance, the Inspector shall issue a written notice ("Nuisance Notice") if the Inspector determines a structure to be a Dangerous Building.

- i. Contents of Notice. The Nuisance Notice shall contain the following:
 - 1. A description of the building or structure at issue;
 - 2. A description of the defects of the building or structure that make the building or structure a Dangerous Building;
 - 3. A declaration that the building or structure is a nuisance;
 - 4. That all Interested Parties shall vacate, if applicable, and the owner must, at their own risk and costs, repair or demolish said building in accordance with the terms of the Nuisance Notice and this ordinance; and
 - 5. A reasonable time, not exceeding thirty (30) days, to commence the required work and to continue the same until completed without unreasonable delay, not to exceed ninety (90) days from the date of notice.
- ii. Service of Notice. The Nuisance Notice shall be given either by personal service or by certified mail, return receipt requested to all Interested Persons. If service cannot be had by either of these modes of service upon each Interested Person, then service may be had by publication in a newspaper qualified to publish legal notices within the City for two (2) successive weeks, directed to all Interested Parties and the general public.

(b) *Compliance with Nuisance Notice; Report of non-compliance.*

- i. Compliance. If a Nuisance Notice is issued, then all Interested Parties must vacate, if applicable, and the owner of the Dangerous Building shall repair or demolish said building, at his, her, or its own risk and cost, in accordance with the Nuisance Notice. The repair or demolition shall commence within a reasonable time, not to exceed thirty (30) days and be continued until completed without unreasonable delay, not to exceed ninety (90) days from the date of Nuisance Notice.

- ii. Non-compliance. Upon receipt of a report from the Building Inspector indicating a failure by any Interested Party to comply with the Nuisance Notice, the Building Commissioner shall call and hold a full and adequate hearing giving all Interested Parties notice on the matter in accordance with this subsection (c).

(c) *Hearing and Notice of Hearing.*

- i. Hearing Notice. The Building Commissioner shall give written notice of the hearing to all Interested Parties at least ten (10) days in advance of the hearing date. The hearing notice shall be given either by personal service or by certified mail, return receipt requested. If the hearing notice cannot be accomplished by either of these methods, then it shall be given by publication for two (2) successive weeks in a newspaper qualified to publish legal notices within the City, with the last insertion being not less than one (1) day prior to the hearing. The Hearing Notice shall identify the Interested Parties, the address of the Dangerous Building, the date, time, and location of the hearing, the right of Interested Parties to be represented by counsel and have an opportunity to be heard, and include such other information as the Building Commissioner determines.
- ii. Hearing Procedures. The Building Commissioner shall preside over a full and adequate hearing in which any Interested Party may be represented by counsel and all Interested Parties shall have an opportunity to be heard. The hearing officers shall be the Building Commissioner, the Director of Administration, and the City Engineer. The Building Commissioner shall issue such orders as determined by the majority of the hearing officers.

(d) *Vacation, Repair or Demolition Order.*

- i. Issuance of Order. If there is competent and substantial evidence presented at the hearing which shows that the building or structure is a nuisance and detrimental to the health, safety, or welfare of the residence of the City and is, thus, a Dangerous Building as defined herein, the Building Commissioner shall issue an order, making specific findings of fact, based upon such competent and substantial evidence, as to the reasons, conditions, or defects making the building or structure a Dangerous Building, and commanding that the building or structure be vacated, repaired, or demolished and removed (““Order”). If supported by such evidence, the Order may direct the City to repair or demolish the Dangerous Building immediately or may provide the owner with a reasonable time to repair or demolish before the City does so. If the evidence does not support a finding that a building or structure is a Dangerous Building, no Order shall be issued.
- ii. Service of Order. The Order shall be served upon all Interested Parties by personal service or by certified mail, return receipt requested. If the party to whom such Order is addressed cannot be found after diligent effort to do so, service may be made upon such party by posting the Order on the building or structure described in the Order.
- iii. Compliance with Order. If an Order is issued providing an Interested Party with an opportunity to vacate, repair or demolish, then any Interested Party shall so vacate, repair, or demolish said building, at his, her, or its own cost and risk, in accordance with the Order. The vacation shall commence in a reasonable time prior to any repair or demolition and shall continue until such repair or demolition is completed. The repair or demolition shall commence within a reasonable time, not to exceed thirty (30) days from the issuance of the Order and shall be continued until completion without unreasonable delay, not to exceed ninety (90) days from the Order.

- iv. Failure to comply with the Order; repair or demolition. If the Interested Parties fail to comply with the Repair or Demolition Order within thirty (30) days of its issuance or fails to continue the same until completion without unreasonable delay, not to exceed ninety (90) days from the Repair and Demolition Order, or if the evidence supported an Order for the City to proceed to repair or demolish the Dangerous Building immediately, the Building Commissioner shall cause such building or structure to be vacated, repaired, or demolished as the Repair or Demolition Order so provides.

Section 7. Recovery of costs.

- (a) *Assessment and certification of costs.* If the City causes a building or structure to be vacated, repaired, or demolished, the costs of such abatement shall be determined and recovered in accordance with this section. The costs incurred by the City in administering the provisions of this ordinance and the actual costs incurred in vacating, repairing, or demolishing a Dangerous Building, shall be certified by the Building Commissioner to the City Clerk as a special assessment represented by a special tax bill against the real property affected.
- (b) *Administrative Fees and Costs.* The costs incurred by the City in administering the provisions of this section shall include all administrative fees and costs incurred by the City in inspection of the Dangerous Building, determination of the Interested Parties, conducting the hearing, and providing notification of the notices and orders authorized herein, including reasonable attorney's fees.
- (c) *Liability created; payment of assessment; collection; lien.* The special tax bill from the date of its issuance shall be deemed a personal debt against the person or persons who were the owners of record of the property at the time the City caused the Dangerous Building thereon to be vacated, repaired, or demolished. If there was more than one owner of record of the property at the time the City caused the Dangerous Building thereon to be vacated, repaired, or demolished, they shall be jointly and severally liable for the personal debt. The City may initiate actions against such owner(s) to collect the personal debt once the special assessment becomes delinquent. The special tax bill from the date of its issuance shall also be a lien on the property until paid. The lien may be enforced by any method appropriate for the enforcement of special assessments generally.
- (d) *Repayment.* Except as provided in Section 8, at the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years and said assessment shall bear interest at the rate of nine (9) percent per annum until paid.

Section 8. Dangerous buildings resulting from insured casualty.

As to damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, if an Order is issued by the Building Commissioner as provided in Section 6, and a special bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, the following procedure is established for the payment of up to twenty-five (25) percent of the insurance proceeds, as set forth in this section. This section shall apply only to a covered claim payment that is in excess of fifty (50) percent of the fact value of the policy covering a building or other structure:

- (a) The insurer shall withhold from the covered claim payment up to twenty-five (25) percent of the covered claim payment and shall pay such moneys to the City to deposit into an interest-bearing account. Any

named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.

- (b) The City shall release the proceeds and any interest that has accrued on such proceeds received under Subsection (a) of this section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the City has instituted legal proceedings under the provisions of this section. If the City has proceeded under the provisions of this section, all moneys in excess of that necessary to comply with this ordinance for the removal of the building or structure, less salvage value, shall be paid to the insured.
- (c) If there are no proceeds of any insurance policy as set forth in this section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- (d) This section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- (e) This section does not make the City a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
- (f) The Building Commissioner may certify, in lieu of payment of all or part of the covered claim under this section, that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild, or otherwise make the premises safe and secure. In this event, the Building Commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to this section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from the Building Commissioner.

Section 9. Appeal.

- (a) *Appeal.* Any Interested Person may, within thirty (30) days from the receipt of the Order, appeal such decision to the Circuit Court of Callaway County, pursuant to the procedure(s) established in Chapter 536 of the Revised Statutes of Missouri.
- (b) *Additional interested parties.* In any appeal provided by this Section, any person who owns or occupies property located within one thousand two hundred (1,200) feet of the perimeter of the building or structure which is the subject of the appeal shall be allowed to present evidence to the Court on behalf of the City of the condition of the building or structure, whether or not such person presented such evidence at the hearing provided by Section 6. The appellant before the Court shall have the opportunity to cross-examine any such person presenting evidence to the Court.

Section 10. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life, or safety of any person unless a Dangerous Building is immediately repaired, vacated, or demolished, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate repair, vacation, or demolition of such Dangerous Building. The cost of such emergency repair, vacation, or demolition of such Dangerous Building shall be collected in the same manner as provided in Section 7 and/or Section 8.

Section 11. Violation; Penalties; Enforcement.

- (a) *Failure to Comply with Order.* Any person in possession or control of any Dangerous Building who shall fail to comply with the Order given by the Building Commissioner, including failing to vacate a building deemed to be a nuisance or failing to repair or demolish any such building, shall be guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in this section.
- (b) *Removal of Notices.* Any person removing any notices provided for in this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with this section.
- (c) *Penalty.* Any person convicted of violating this ordinance shall be punished by a fine of not more than five hundred dollars (\$500.00) per occurrence.
- (d) *Continual violation.* Each day that a person fails to comply with the Order of the Building Commissioner may be deemed a separate offense for which the violator may be penalized without necessity of further notice.
- (e) *Civil Enforcement.* The City may institute a civil action in the Circuit Court of Callaway County against any person failing to comply with any order given pursuant to this ordinance to secure the vacation of such Dangerous Building or for the recovery of any costs as provided herein.

Section 12. Conflicts.

Any building or structure found to be a Dangerous Building in accordance with this ordinance shall be subject to the terms and procedures of this ordinance and not the property maintenance code.

Section 13. Authority to Enforce.

- (a) *Entry; inspection.* The Building Inspector, Building Commissioner, or their agents, may enter upon private property for the purposes specified in this ordinance to examine buildings, structures, or parts thereof; obtain information as to the identity of the Interested Parties in said buildings or structures; and to repair or demolish, or cause to be repair or demolished, any building or structure declared to be a Dangerous Building and a nuisance pursuant to this ordinance, as consistent with the owner or occupant's reasonable expectation of privacy, including entering any building with the owner or occupant's consent or with a warrant.
- (b) *Orders to enforce.* The Municipal Court of the City shall have authority to issue all orders necessary to enforce this ordinance, including, but not limited to, search warrants and seizure warrants.

Section 14. Miscellaneous.

This ordinance shall be in full force and effect from and after its passage and approval, and shall supersede any prior ordinances, including the International Building Code, to the extent such ordinances are inconsistent herewith. Nothing contained in this Ordinance shall prevent the City and any Interested Parties from reaching an agreement to address a property containing a Dangerous Building as all Interested Parties and the City agree.

ARTICLE II: MISCELLANEOUS NUISANCES

Section 1. Purpose and scope.

It is the purpose of this ordinance to implement the provisions of Section 67.398, RSMo., and to provide a just, equitable, and practicable method for the abatement of certain public nuisances including those caused by debris, vegetation, grass, weeds, or rubbish located on private property or certain public property under an individual's control.

Section 2. Public Nuisances.

No person in charge or control of any property within the City, whether as owner, occupant, or otherwise, shall maintain, use, place, deposit, leave, or permit to be placed or, in some cases, to remain, on property within the City of Fulton any of the following items, conditions, or actions, and the same are determined to be, and are hereby declared to be, public nuisances:

A. Debris of any kind; weed cuttings; cut, fallen, or hazardous trees and shrubs; rubbish and trash; lumber not piled or stacked twelve (12) inches off the ground; piles of rocks or bricks; tin, steel, parts of derelict cars or trucks; broken furniture; any flammable material which may endanger public safety; or any material or condition which is unhealthy or unsafe.

B. Any accumulation of stagnant water or any land that is not graded and maintained so as to prevent the accumulation of stagnant water thereon or within any structure thereon.

C. Any airtight enclosure which is accessible to children and which cannot be opened from the inside.

D. Any sidewalk accessible to the public and/or steps which are not maintained in good repair, free of holes or protruding edges hazardous to pedestrian travel.

E. Any sidewalk and/or steps accessible to the public containing accumulated mud, debris, garbage, or other items or substances upon the surface which may cause a pedestrian to lose footing.

F. Any accumulation of snow and ice from sidewalks and/or steps accessible to the public not removed within twenty-four (24) hours.

G. Overgrown trees, shrubs, or other obstructions to pedestrian travel located on or near a sidewalk accessible to the public.

H. Any electric fence or fence constructed wholly or partly of barbed wire that is maintained abutting and within three feet of any public street, alley, sidewalk, or public way, except in areas zoned agricultural (A-1).

I. Growth of any vegetation harmful or irritating to the human touch, including poison ivy, poison oak, and poison sumac.

J. Overgrown vegetation and noxious weeds (defined herein as all grasses, annual plants, and vegetation, other than trees, decorative shrubs, cultivated flowers, ornamental plants, or garden plants) which are eight (8) inches or more in height, with the exception that this provision shall not apply to any lot or tract of land in excess of 60,000 square feet which is not being used for an industrial, commercial, or residential purpose, so long as such lot shall have a border within which weeds shall be cut. The border shall be measured along its perimeter 25 feet deep from the public right-of-way and from any adjoining lot or tract of land used for an industrial, commercial, or residential purpose.

Section 3. Building Inspector.

- (a) *Building Inspector.* Any City employee so designated by the Mayor or City Administrator shall be Building Inspectors within the meaning of this ordinance.
- (b) *Duties of the Building Inspector.* The Building Inspector shall have the power and duty under this ordinance to:
- i. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special, or miscellaneous occupancy buildings to determine whether any conditions exist that render such places a public nuisance as defined herein when the Inspector has reasonable grounds to believe that such public nuisance exists, including entering any building with the approval of the occupant or owner or with a warrant.
 - ii. In accordance with Section 5, notify, in writing, the owner and/or occupant of any lot, land, or building found to contain a public nuisance.
 - iii. Report in writing to the City Building Commissioner the noncompliance with any notice to abate or upon the failure to proceed continuously with the abatement work without unreasonable delay.
 - iv. If requested in accordance with Section 5, appear at all hearings conducted by the Building Commissioner and testify as to the condition of the lot, land, or buildings as to the public nuisance.
 - v. Post notices to the owner and/or occupant of the land, lot, or buildings regarding any public nuisance as provided in this ordinance and as directed by the Building Commissioner, and post notice of any order issued by the Building Commissioner.
 - vi. Take any other action as directed by the Mayor, City Administrator, or Building Commissioner or as necessary for compliance with this ordinance, state, or federal law.

Section 4. Building Commissioner.

- (a) *Building Commissioner.* The Planning and Protective Services Director shall act as Building Commissioner under this ordinance.
- (b) *Duties of the Building Commissioner.* The Building Commissioner shall have the power and duty pursuant to this ordinance to:
- i. Supervise all inspections required by this ordinance and cause the Building Inspector to make inspections and perform all the duties required of the Building Inspector by this ordinance. Upon receiving a complaint or report from any source that a public nuisance exists within the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of the Commissioner's duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other city department or retain the services of an expert whenever the Building Commissioner deems such service necessary.
 - ii. Upon receipt of a report from the Building Inspector indicating a failure by any owner and/or occupant to commence abatement work within the time specified by the notice given them or this

ordinance or to proceed continuously with said work without unreasonable delay, the Building Commissioner shall cause said condition to be abated or removed in accordance with Section 6.

- iii. If requested by an owner or other person in accordance with Section 5, conduct a hearing on the determination of a nuisance.
- iv. Take any other action, directly or through the Building Inspector, as directed by the Mayor or City Administrator, or as necessary for compliance with this ordinance, state, or federal law.

Section 5. Declaration of nuisance; procedure.

(a) *Issuance of Order of Abatement* After an inspection performed by a Building Inspector in accordance with this ordinance, the Inspector shall issue a written notice and order if the Inspector determines the land, lot, or buildings to contain any public nuisance.

i. Contents of Notice. The notice shall contain the following:

- 1. A description of the building or structure at issue;
- 2. A description of the condition or conditions of the land, lot, or building that constitute a public nuisance;
- 3. An order that the owner and/or occupant abate or commence removal of, at their own risk and cost, the nuisance identified by the notice;
- 4. A reasonable time, not less than ten (10) days, to abate or commence removal of each condition identified in the notice;
- 5. A statement that the failure to abate the nuisance could result in a citation and penalties, fees, or incarceration, or abatement by the City with the costs thereof to be assessed against the owner and/or the property as set forth in this ordinance; and
- 6. The right of the owner to request a hearing in accordance with this ordinance.

ii. Service of Notice. The notice shall be given either by personal service or by first-class mail to both the occupant of the property at the property address and to the owner at the last known address of the owner, if not the same. Additionally, the notice may be posted upon the premises at issue.

(b) *Compliance with Nuisance Notice; Report of non-compliance.*

- i. Compliance. If a notice is issued, then the owner must abate or commence removal of each condition identified in the notice in accordance with the terms of the notice.
- ii. Non-compliance. Upon receipt of a report from the Building Inspector indicating a failure by the owner to comply with the notice, the Building Commissioner shall cause the nuisance to be abated in accordance with Section 6.

(c) *Request for Hearing.*

- i. Right to Request. Any owner or person receiving the notice of nuisance who does not agree with the determination of a nuisance and who wishes to challenge the notice and order of abatement may request a hearing in accordance with this section.
- ii. Form of Request. The request must be made in writing and received by the Building Commissioner within seven (7) days of the date of the notice. The request must state the name of the person requesting the notice, their mailing address, their phone number, a statement that they request a hearing on the determination of a nuisance, and location of the nuisance. The Building Commissioner may promulgate a form by which a hearing may be requested. If no such request is received within the period stated herein, the notice and any order to abate shall be come final and not subject to challenge.
- iii. Hearing Procedure. Once a request for hearing is received, the hearing shall be conducted in accordance with the "contested case" provisions established in Chapter 536 of the Revised Statutes of Missouri. At the conclusion of the hearing, if there is competent and substantial evidence presented at the hearing which shows a nuisance to exist, then the Building Commissioner may issue an order to abate the nuisance or a citation to the owner or occupant as provided in Section 6 or, if it does not, no order of abatement shall issue.

Section 6. Abatement of nuisance.

Upon a failure of the owner to pursue the removal or abatement of the nuisance(s) identified in the notice, or, if a hearing is requested and the Building Commissioner finds competent and substantial evidence of a nuisance, the Building Commissioner may issue an order causing the nuisance to be removed or abated or may issue a citation to the owner and/or occupant as provided in Section 8.

Section 7. Recovery of costs.

- (a) *Assessment and certification of costs.* If the City causes a nuisance to be removed or abated, the costs of such abatement shall be determined and recovered in accordance with this section.
- (b) *Charge for abatement costs.* The charge for abatement costs shall be based upon a minimum fee, plus hourly labor fee per employee, equipment cost (if necessary), and disposal costs. If the work is done by contract, the fee will be the amount charged to the City. The cost of abatement may also include a \$100.00 administrative fee for the City's costs in administering this ordinance.
- (c) *Notification of abatement costs.* Within thirty (30) days of the City completing the abatement work, the City shall send to the owner and occupant a notice informing them of the cost of the abatement work. The notice shall give a just and true account of the charges and/or costs the City seeks to collect.
- (d) *Collection of abatement costs.* The owner shall have forty-five (45) days after notification of completion of the abatement costs to pay the costs. If the abatement bill remains unpaid 45 days after notification thereof, the costs incurred in abating the nuisance shall be certified by the Building Commissioner to the City Clerk as a special assessment represented by a special tax bill or added to the annual real estate tax bill, at the collecting official's option, against the real property affected, and the costs shall be collected in the same manner and procedure for collecting other real estate taxes.
- (e) *Liability created; payment of assessment; collection; lien.* The special tax bill from the date of its

issuance shall be deemed a personal debt against the person or persons who were the owners of record of the property at the time the City caused the nuisance thereon to be abated or repaired. If there was more than one owner of record of the property at the time the City caused the nuisance thereon to be abated or repaired, they shall be jointly and severally liable for the personal debt. Collection of a delinquent bill shall be governed by the laws governing delinquent and back taxes, including those issues regarding due date, interest, and late penalties. The special tax bill from the date of its issuance shall also be a lien on the property until paid. The lien may be enforced by any method appropriate for the enforcement of special assessments generally. No clerical error or informality in the tax bill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill.

Section 8. Emergencies.

In cases where it reasonably appears that a condition presents an immediate, specifically identified risk to the public health or safety, the Building Inspector may give the property owner or occupant less than ten (10) days to abate or remove the condition or conditions constituting a nuisance. Alternatively, the Building Commissioner may cause the immediate abatement or removal of such condition, and the cost of such emergency abatement or removal of such nuisance shall be collected in the same manner as provided in Section 7.

Section 9. Violation; Penalties; Enforcement.

- (a) *Citation.* Failure of the owner or other person in control of property subject to a notice issued pursuant to this ordinance to abate or remove the condition or conditions constituting a nuisance within the time stated by the notice may result in a citation being issued to such owner or other person in control of the property. The citation shall define the violation and state the place, time, and date of the court appearance.
- (b) *Penalty.* Any person issued a citation for violating this ordinance may be charged with court costs and punished as follows:
 - i. First Offense: Not less than \$250.00 and not more than \$500.00. Note: The minimum penalty amount shall apply if it is paid before court date.
 - ii. Second Offense in a 12-month period: Not less than \$500.00 and not more than \$750.00.
 - iii. Third Offense in a 12-month period: Not less than \$1,000.00 and not more than \$1,500.00 and no less than 4 hours or no more than 3 days in jail.
 - iv. Fourth Offense in a 12-month period: Not less than \$1,250.00 and not more than \$1,750.00 and no less than 3 days and no more than 10 days in jail.
- (c) *Continual violation.* Each day that a person fails to abate or remove the condition or conditions constituting a nuisance may be deemed a separate offense for which the violator may be penalized without necessity of further notice.
- (d) *Civil Enforcement.* The City may institute a civil action in the Circuit Court of Callaway County against any person failing to comply with any order given pursuant to this ordinance to secure the abatement or removal the condition or conditions constituting a nuisance or for the recovery of any costs as provided herein.

Section 10. Authority to Enforce.

- (a) *Entry; inspection.* The Building Inspector, Building Commissioner, or their agents, may enter upon private property for the purposes specified in this ordinance to examine property, buildings, structures, or parts thereof; obtain information as to the identity of the owner or occupant in said property; and to abate or repair, or cause to be abated or repair, any condition or conditions declared to be a nuisance pursuant to this ordinance, as consistent with the owner or occupant's reasonable expectation of privacy, including entering any building with the owner or occupant's consent or with a warrant.
- (b) *Orders to enforce.* The Municipal Court of the City shall have authority to issue all orders necessary to enforce this ordinance, including, but not limited to, search warrants and seizure warrants.

Section 11. Miscellaneous.

This ordinance shall be in full force and effect from and after its passage and approval, and shall supersede any prior ordinances to the extent such ordinances are inconsistent herewith. Nothing contained in this ordinance shall prevent the City and any owner and/or occupant from reaching an agreement to address a property containing a public nuisance as all parties may agree. This ordinance shall apply to all nuisances other than those constituting a Dangerous Building as defined by the Unsafe Building Ordinance.

ARTICLE III: STORMWATER RUNOFF AND MANAGEMENT

Section 1. Generally

A. Definitions.

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

1. *Catchment* means the subwatershed as identified in the city storm drain study.
2. *Detention facility* means any structure which is designed to collect and store surface water for subsequent gradual discharge.
3. *Excess stormwater runoff* means that portion of stormwater which exceeds:
 - i. The safe storm drainage capacity of the downstream storm sewers within the catchment;
 - ii. The predevelopment runoff in the particular tract.
4. *Protected channel* means a channel which receives stormwater discharge and which is paved, riprapped or otherwise improved by addition of manmade materials to reduce the potential for erosion.
5. *Safe storm drainage capacity* means the quantity of stormwater runoff that can be transported by a channel or conduit without having the water surface rise above the top of the channel or conduit.

6. *Stormwater channel* means a natural or manmade open watercourse with definite bed and banks which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

7. *Stormwater runoff* means water that results from precipitation which is not absorbed by the soil or vegetation or evaporated and which flows over the ground surface or is collected in channels or conduits.

8. *Stormwater runoff release rate* means the rate at which stormwater runoff is released from dominant to servient land.

9. *25-year, 24-hour frequency rainfall* means a precipitation event of 24 hours duration, having a 4.0 percent chance of occurring in any one year.

B. Article supplemental to development ordinances.

This article further supplements ordinances regulating the following:

1. The subdivision, layout and improvement of lands, as provided in chapter 102 of this Code, located within the corporate limits of the city.

2. The excavating, filling and grading of lots and other parcels or areas.

3. The construction of buildings and the drainage of the sites on which those structures are located, to include parking and other paved areas.

4. The design, construction and maintenance of stormwater drainage facilities and systems.

C. Other permits required.

Before starting any activities regulated by this article, an applicant shall comply with the requirements set forth in other applicable ordinances with respect to the submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, inspections, appeals and similar matters, along with those set forth in this article and as may be required by state statutes and the regulations of any department of the state.

D. Conflicting standards.

This article shall be deemed as additional to standards required by other ordinances of the city. In case of conflicting requirements, the most restrictive shall apply. All other ordinances or parts of ordinances in conflict with this article are repealed.

E. Reserved.

Section 2. Administration and Enforcement

A. Responsibility.

The administration of this article shall be the responsibility of the office of the city engineer.

B. Variances.

1. *Standards.* Variations from this article may be granted when it is demonstrated to the satisfaction of the city council that, owing to special conditions, a strict adherence to this article will result in unnecessary hardship and that the spirit and intent of this article will not be observed.

2. *Procedure.* A request for variation shall be filed by the owner seeking to develop or change the use of this property or his agent with the city engineer who shall refer it, together with his recommendation, to the city council for decision. The request for variation shall be written and shall state specifically what variation is sought and the public's interest in granting the variation.

C. Official maps and profiles.

Responsibility for all changes to official maps and profiles remains with the city council.

D. Interpretation.

In the interpretation and application of this article, the provisions expressed in this article shall be held to be the minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

E. Inspection.

The city engineer shall be responsible for determining whether the stormwater management plan is in conformance with division 3 of this article and whether development is proceeding in accordance with approved stormwater management plan. Periodic inspection of the development site shall be made by the city engineer to ensure the stormwater management plan is properly implemented. The city engineer and other duly authorized employees bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation and measurement in accordance with this article.

F. Enforcement.

1. *Work suspension.* If work performed does not conform to the provisions of the approved stormwater management plan and specifications, a written notice to comply shall be served upon the developer. Such notice shall set forth the nature of the correction required and the time within which corrections shall be made. Failure to comply with such notice shall result in the issuance of a stop work order applicable to all construction activity except that necessary for correction of the violation. Upon correction of the violation, the stop work order shall be voided and construction may resume.

2. *Bond forfeiture.* For continued violation of the approved stormwater management plan, a public hearing on the matter shall be conducted by the city council. Written notice of such hearing shall be served upon the developer by registered mail and shall state the grounds for complaint and the time and place such hearing is to be held. Such notice shall be served at least 15 days prior to the date set for the hearing. At any such hearing, the developer shall be given an opportunity to be heard, and he may call witnesses and present evidence on his behalf. After such hearing, if the city council concludes that the issuance of additional correction notices would be futile, any bonds or cash deposits posted with the city shall be forfeited, whereupon such security shall be used for completion of the stormwater management plan as approved.

G. Penalties.

Any person who violates or fails to comply with this article shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than \$25.00 or more than \$200.00.

H. Reserved.

Section 3. Design Criteria and Performance Standards

A. Applicability.

1. A stormwater management plan shall be submitted to the city engineer by the owner of any proposed residential, commercial or industrial development within the city, unless the city engineer waives such requirement for one of the following reasons:

i. *Offsite facility, two or more developments.* If two or more developments, including that of the applicant, have provided for a common system.

ii. *Offsite facility by city.* If an offsite stormwater management system has been either constructed or programmed or identified for construction by the city and the applicant has agreed to contribute to or participate in the construction thereof.

iii. *Contribution in lieu of facility construction.* If the applicant agrees to contribute to the city fund an amount based upon square footage of the hard surface. The fee schedule to be agreed upon by the council.

Any hard surface of 500 square feet or less can be waived by the city engineer and code enforcement officer.

Any surface area in excess of 75,000 square feet is not eligible. This development must have their own stormwater management system.

iv. *Other management techniques.* Management techniques other than detention facilities may be utilized by the development, provided the techniques proposed meet the intent of this article and provide a benefit to the watershed that equals or exceeds the benefit that a detention facility would provide.

2. No final subdivision or development plat shall be approved and no building permits shall be issued until the stormwater management plan has either been waived or reviewed and approved by the city engineer.

B. Stormwater management plans.

The required stormwater management plan shall identify means for controlling the stormwater runoff release rate from the development and providing storage potential for the excess stormwater runoff. All computations, plans and specifications related to the implementation of this article must be prepared and sealed by a professional engineer registered in the state. The entire catchment shall be studied to determine the runoff impact within the subwatershed. The stormwater management plan shall contain but not be limited to the following information, unless specifically excluded by the city engineer:

1. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high-water elevations, the shoreline of lakes, ponds and detention basins, including their inflow and outflow structures, if any within the designated catchment.

2. The location and flow line elevation of all existing sanitary, storm or combined sewers and other waterways within the catchment.

3. Detailed determination of runoff anticipated for the entire project site following development indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine such runoff volumes and rates and restatement of the criteria which have been used by the project engineer throughout his calculations.

4. A layout of the proposed stormwater management system, including the location and size of all drainage structures, storm sewers, channels and channel sections, detention basins, and analyses regarding the effect the improvements will have upon the receiving channel and its high-water elevation.

5. For all detention basins, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations.

6. For all detention basins, design hydrographs of inflow and outflow for both the 25-year, 24-hour, and 50-year, 24-hour, design runoff events for the site under predeveloped conditions and the calculated 25-year, 24-hour, and 50-year, 24-hour, peak flows from the site under predeveloped conditions.

7. A profile and one or more cross sections of all existing and proposed channels or other open drainage facilities, showing existing conditions, and the proposed changes thereto, together with the high-water elevations expected from stormwater runoff under the controlled conditions called for by this article and the relationship of structures, streets and other utilities to such channels.

C. Design criteria.

The following shall govern the design of improvements with respect to managing stormwater runoff:

1. *Methods of determining stormwater runoff rate and volume.* Drainage and storage facilities shall be designed using the soil conservation service urban hydrology, TR-55, method of calculating runoff discharge rate and the total volume.

2. *Release rate.* The controlled release rate of stormwater runoff from all developments described in section 46-91 shall not exceed the predevelopment rate. The rate at which stormwater runoff is delivered to a designated stormwater storage area shall be unrestricted. If the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided in this subsection, the allowable release rate shall be reduced to that rate permitted by the capacity of the downstream channel or storm sewer system.

3. *Development design.* Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground and to preserve and utilize existing and planned streams, channels and detention basins and include, whenever possible, streams and floodplains within parks and other public grounds.

4. *Detention.* The increased stormwater runoff resulting from the proposed development may be accommodated by providing appropriate detention facilities, including wet or dry bottom reservoirs, flat roofs, parking lots or streets. The following shall govern the design of detention facilities:

i. *Storage volume.* The volume of storage potential provided in detention facilities shall be sufficient to control the excess stormwater runoff, as determined to be the difference between the stormwater quantity from the site in its developed state for a 50-year, 24-hour frequency rainfall as published by the U.S. weather bureau, less the allowable release rate as set forth in subsection (2) of this section. The allowable stormwater release rate shall not be exceeded, regardless of the depth of stormwater contained in the required stormwater detention facility.

ii. *Release rate.* At no time during the design storm shall the stormwater runoff release rate exceed the allowable release rate as set forth in subsection (2) of this section.

iii. *Release velocity.* Detention facilities shall release stormwater at a nonerosive velocity. Protected channels receiving detention discharge shall incorporate features to reduce velocity to nonerosive levels at the point where such discharge enters the unprotected channel. If release is into a subsurface conduit, the energy gradient in the receiving facility shall not be increased beyond the slope of the conduit.

iv. *Spillway.* Emergency spillways shall be provided to permit the safe passage of runoff generated from a 100-year, 24-hour storm, or greater, if required by regulations of the state department of natural resources.

v. *Freeboard.* Detention facilities shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least one foot of freeboard above the water surface of flow in the emergency spillway in a 100-year, 24-hour storm.

D. Performance standards.

1. *Stormwater channel location.* Generally acceptable locations of stormwater channels in the design of a subdivision may include but are not limited to the following:

i. Adjacent to roadways.

ii. In a depressed median of a double roadway, street or parkway, provided the median is wide enough to permit slopes of one foot drop in six feet horizontal or flatter.

iii. Centered on lot lines or entirely within the rear yards of a single row of lots or parcels.

iv. In each of the cases in subsections (a)(1) through (3) of this section, a drainage easement with sufficient width to facilitate maintenance and design flow shall be provided and shown on the plat.

2. *Storm sewer outfall.* The storm sewer outfall shall be designed to provide adequate protection against downstream erosion and scouring.

3. *Lot lines.* Whenever the plans call for the passage or storage of stormwater runoff along lot lines, the grading of all such lots shall be prescribed and established for the passage or storage of waters, and no

structure or vegetation which would obstruct the flow of stormwater shall be allowed nor shall any change be made to prescribed grades and contours of the specified stormwater channels.

4. *Manholes.* All utility sewer manholes constructed in an area designed for the storage or passage of stormwater shall be provided with either a watertight manhole cover or be constructed with a rim elevation of a minimum of one foot above the high-water elevation of the design storm.

5. *Easements.* Permanent easements for the detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the city.

6. *Obstruction of drainage.* The keeping or disposal of grass clippings, trash, debris, obstructions or unwanted materials into the storm sewers or within or along stormwater channels or in adjacent floodplain areas which may wash into sewers and channels is prohibited.

7. *Maintenance.* Provisions acceptable to the city for perpetual maintenance of detention facilities, outlet works, and appurtenances shall be made, as provided in section 46-107.

E. Reserved.

Section 4. Bonds, Maintenance Assurance and Fees.

A. Performance bonds and other assurances for completion and operation of improvements.

Upon approval of the stormwater management plan, but before the issuance of a building permit or subdivision plat approval, the city engineer shall require the applicant to post a performance bond, cash escrow, certified check, or other acceptable form of performance security in an amount sufficient to ensure the execution of the plan. After determination by the city engineer that all facilities are constructed in compliance with the approved plan, the performance bond or other securities shall be released.

B. Maintenance agreement.

A maintenance agreement approved by the city council ensuring perpetual maintenance of stormwater management improvements shall be executed by the city and the applicant.

C. Fees.

A fee per lot, as established by the city council from time to time, shall accompany the submittal of each stormwater management plan for review.

Section 5. Miscellaneous.

This ordinance shall be in full force and effect from and after its passage and approval, and shall supersede any prior ordinances to the extent such ordinances are inconsistent herewith.

SECTION TWO: That the City of Fulton hereby authorizes its codifier, Municipal Code Corporation and its editors to edit and adjust the section numbers contained herein to join uniformly with the layout of the Code of

the City of Fulton.

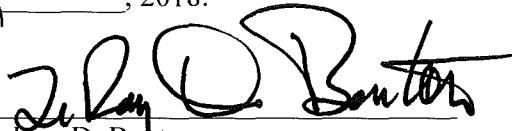
SECTION THREE: That this ordinance shall be in full force and effect after its passage by the Council and approval by the Mayor.

READ THREE TIMES AND PASSED THIS 22nd DAY OF May, 2018.



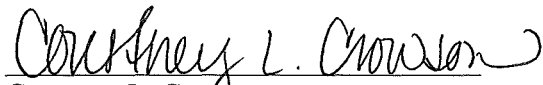
LeRoy D. Benton
President of the Council

APPROVED THIS 22nd DAY OF May, 2018.



LeRoy D. Benton
Mayor

ATTEST:


Courtney L. Crowson
City Clerk